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Volume I **TRANSCRIPT OF RECORD**

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1945

No. 919

NATIONAL LABOR RELATIONS BOARD, PETITIONER

vs.
CHENEY CALIFORNIA LUMBER COMPANY

**ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE NINTH CIRCUIT**

**ARGUED AUGUST 15, 1945
DECIDED AND GRANTED OCTOBER 22, 1945**

No. 10787

United States
Circuit Court of Appeals
For the Ninth Circuit.

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

vs.

CHENEY CALIFORNIA LUMBER COMPANY.
Respondent.

SUPPLEMENTAL

Transcript of Record

Upon Petition for Enforcement of an Order of the
National Labor Relations Board

INDEX

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

	Page
Answer	6
Complaint	1
Decision and Order	10
Intermediate Report	13
Motion for Leave to Print Supplement to Record and for Extension of Time, and Order..	265
Order to Show Cause	57
Petition for Enforcement of an Order of N. L. R. B.	51
Testimony:	
Board Exhibits:	
No. 2—Termination Notice of Ira L. Ware	103
No. 3—Termination Notice of Clayton Block	157
No. 4—Application for Union Mem- bership of Lindsay L. Glenn..	160
No. 5—Application for Union Mem- bership of Leslie Allen.....	189
No. 6—Termination Notice of Leslie Allen	199

Index**Page****Board Witnesses:**

Allan, John Leslie	
—direct	178
—cross	201
—redirect	207
Beem, William Nolan	
—direct	281
Blair, Kenneth R. C.	
—direct	283
Block, Clayton	
—direct	153
—recalled, direct	287
Cheney, B. B.	
—direct	60
Glenn, Lindsay George	
—direct	158
—cross	160
—redirect	174
—recross	176
—direct (recalled)	261, 301
Norberg, Albert Roy	
—direct	143
—recross	269
Norberg, Harold Arnold	
—direct	269
—cross	279
Smith, Ruel Franklin	
—direct	285

Index	Page
Board Witnesses—(Continued)	
Waitts, Alvin	
—direct	114
—cross	129
—redirect	140
—recross	141
Ware, Ira Leown	
—direct	93
—cross	108
—redirect	113
Williams, Harold Hall	
—direct	207
Wyatt, Boyd	
—direct	66
—cross	81
—redirect	92
Respondent's Witnesses:	
Cheney, B. B.	
—direct	240
—cross	250
—redirect	260
Davis, Ernest J.	
—direct	235
—cross	239
Hawson, William H.	
—direct	227
—cross	231

Index	Page
Respondent's Witnesses—(Continued)	
La Fluer, Jessie W.	
—direct	222
Manning, Stanley A.	
—direct	219
—redirect	221
Pettie, Robert Earl	
—direct	211
—cross	215
—redirect	217
—recross	218
Waitts, Alvin	
—direct	239
Wilson, Ivan L.	
—direct	232
IV	
Proceedings in U. S. C. C. A., Ninth Circuit	348
Order of submission	348
Order directing filing of opinion and decree	348
Opinion, per curiam	349
Decree	350
Order denying petition for rehearing	351
Clerk's certificate	351
Order allowing certiorari	353

BOARD'S EXHIBIT No. 1-b

United States of America

Before the National Labor Relations Board

Twentieth Region

Case No. 20-C-1195

In the Matter of

CHENEY CALIFORNIA LUMBER COMPANY

and

LUMBER & SAWMILL WORKERS,

LOCAL 2647.

COMPLAINT

It having been charged by Lumber & Sawmill Workers, Local 2647, that Cheney California Lumber Company, herein called the respondent, has engaged in and is now engaging in certain unfair labor practices affecting commerce, as set forth in the National Labor Relations Act, 49 Stat. 449, herein called the Act, the National Labor Relations Board, herein called the Board, by the Regional Director for the Twentieth Region as agent for the Board designated by the Board's Rules and Regulations, Series 2, as amended, Article IV, Section 1, hereby issues its Complaint and alleges as follows:

I.

Cheney California Lumber Company is, and at all times herein mentioned has been, a California corporation engaged in the operation of a lum-

ber mill near Greenville, California, herein referred to as the respondent's Greenville mill. Respondent is engaged at its Greenville mill in the manufacture, sale, and distribution of lumber and lumber products, including railroad ties.

II.

Respondent, in the course and conduct of its business causes, and has continuously caused, a substantial amount of machinery, materials, and supplies used by it at its Greenville mill to be purchased and transported in interstate commerce from and through states of the United States other than the State of California to its Greenville mill, and causes, and has continuously caused, a substantial amount of the products manufactured, sold, and distributed by it to be sold and transported in interstate commerce from its Greenville mill to and through states of the United States other than the State of California.

III.

Respondent, in the course and conduct of its business, sells, and at all times herein mentioned has sold, large quantities and valuable amounts of the railroad ties manufactured by it at its Greenville mill, to the Western Pacific Railroad Company and to the Southern Pacific Company. The Western Pacific Railroad Company uses the railroad ties purchased by it from respondent on the railroad beds over which it operates passenger and freight trains in interstate commerce from the city of Oak-

land, California, through the states of Nevada and Utah to Salt Lake City, Utah. The Southern Pacific Company uses the railroad ties purchased by it from respondent on the railroad beds over which it operates passenger and freight trains in interstate commerce from the city of Oakland, California, through the states of Nevada, Arizona, and New Mexico, to El Paso, Texas; from Oakland, California, to Portland, Oregon; and from Oakland, California, through various states of the United States to Chicago, Illinois. The Western Pacific Railroad Company and the Southern Pacific Company each transport large quantities and valuable amounts of the railroad ties purchased from respondent to points and places outside of the State of California. All of the railroad ties purchased by the Western Pacific Railroad Company and the Southern Pacific Company from respondent are used in connection with the interstate railroad systems operated by each of said railroads.

IV.

Lumber & Sawmill Workers, Local 2647, affiliated with the American Federation of Labor, herein called the Union, is a labor organization within the meaning of Section 2, sub-division 5 of the Act.

V.

Respondent, through its officers, agents, and employees, during approximately September and October of 1942, informed its employees that respondent objected to their joining the Union and that

respondent might close the mill if the Union succeeded in organizing the employees; and during March of 1943, questioned its employees regarding their union affiliations, and again advised its employees that respondent objected to their joining the Union and that they would be better off if they did not join the Union, but instead would discuss their problems with respondent through a committee of employees.

VI.

Respondent, through its officers, agents, and employees, discharged Clayton Block and Ira Ware on or about March 19, 1943 and Leslie Allen and Lindsay Glenn on or about May 21, 1943, because of their membership in and activities on behalf of the Union and at all times since said dates has refused, and now refuses, to reemploy said employees. Respondent discharged Allen and Glenn for the further reason that respondent desired thereby to influence, and did influence, a Board election scheduled for and held on May 22, 1943 for the purpose of determining whether respondent's employees desired to be represented for collective bargaining purposes by the Union.

VII.

By the acts described in Paragraph VI above, respondent has discriminated and is discriminating in regard to the hire and tenure of employment of the employees named above in Paragraph VI, there-

by discouraging membership in the Union and respondent did thereby engage in and is thereby engaging in, unfair labor practices within the meaning of Section 8, sub-division 3 of the Act.

VIII.

By the acts described in Paragraphs V and VI above and by each of said acts, respondent did interfere with, restrain, and coerce, and is interfering with, restraining, and coercing its employees in the exercise of their rights guaranteed in Section 7 of the Act, and did thereby engage in, and is thereby engaging in, unfair labor practices within the meaning of Section 8, sub-division 1 of the Act.

IX.

The activities of the respondent described in Paragraphs V, VI, VII, and VIII, occurring in connection with the operations of the respondent described above in Paragraphs I, II, and III, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several states and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

X.

The acts of respondent described above constitute unfair labor practices affecting commerce within the meaning of Section 8, sub-divisions 1 and 3, and Section 2, sub-divisions 6 and 7 of the Act.

Wherefore, the National Labor Relations Board on the 26th day of August, 1943, issues its Complaint against Cheney California Lumber Company, a corporation, respondent herein.

MARTIN WAGNER

Regional Director

Twentieth Region

National Labor Relations Board

[Seal]

[Title of Board and Cause.]

ANSWER

Respondent, Cheney California Lumber Company, answering the above entitled complaint, admits, denies and alleges:

I.

Admits paragraphs I and IV.

II.

Denies paragraphs II, V, VI, VII, VIII, IX and X and each and every allegation contained therein.

III.

Respondent has no information sufficient to form a belief as to the truth of the allegations contained in Paragraph III and therefore denies the same and each and every allegation contained therein.

As a further and separate answer and defense, Respondent complains and alleges as follows:

I.

Cheney California Lumber Company is, and at all times herein mentioned has been, a California corporation engaged in the operation of a lumber mill near Greenville, California, herein referred to as the respondent's Greenville mill. Respondent is engaged at its Greenville mill in the manufacture, sale, and distribution of lumber and lumber products, including railroad ties.

II.

Respondent, in the course and conduct of its business, sells, and at all times herein mentioned has sold, railroad ties manufactured by it at its Greenville mill, to the Western Pacific Railroad Company and to the Southern Pacific Company. All said sales were made F.O.B. Greenville, California and delivered to said railroads within the State of California.

III.

Respondent, in the course and conduct of its business, sells, and at the times herein mentioned has sold, railroad ties and lumber for delivery outside the State of California in quantities not in excess of eight per cent of its total sales or shipments.

IV.

Respondent has never itself, nor through its officers, agents or employees during any of the times

mentioned in the above entitled Complaint, nor at any other times, objected to its employees joining the Union nor questioned the Union affiliations of its employees. The Respondent has at all times herein mentioned offered to accept and still offers to accept any union organization acceptable to the majority of its employees to be decided by an impartial Board election.

V.

Respondent discharged Clayton Block on or about March 19, 1943 for reason of his repeated failure to report for work on occasions too numerous to mention. Respondent discharged Ira Ware on or about March 19, 1943 for reasons of willful failure and refusal to do the work assigned to him, thereby causing undue hardship on fellow employees. Respondent discharged Leslie Allen and Lindsay Glenn on or about May 21, 1943 for willful disregard of Respondent's orders and performing their work in such a manner as to cause the breakdown of machinery and the endangering of lives of fellow employees.

VI.

Respondent has never discriminated in regard to the hire and tenure of employees but has hired persons known to Respondent to be members of the Union and has offered all employees, union or otherwise, the same privilege of overtime work and wage increases.

VII.

That on or about the 22nd day of May, 1943, the Respondent agreed to hold a consent Board election to determine whether Respondent's employees desired to be represented for collective bargaining purposes by the Union. Said election resulted in a tie vote, sixteen votes for the Union and sixteen votes against the Union. Two additional votes cast and not counted were challenged by the Respondent for reasons that said votes were cast by persons no longer in the employ of Respondent, and two employees were prevented from voting by a representative of the Union and the Board, for reasons unknown to Respondent.

VIII.

Since said Board election of May 22, 1943, conditions have changed materially at the Greenville mill of Respondent. The manager and foreman have been replaced and are no longer with the Respondent company and many new persons have been employed at Respondent's Greenville mill, thus the results of the Board election of May 22, 1943 is not necessarily a true indication of the desires of the present employees to be represented for collective bargaining purposes. In fairness to its employees, Respondent desires another Board election to be held to determine the desires of its employees with regard to representation for collective bargaining purposes.

Wherefore, the Respondent answers the complaint of the National Labor Relations Board, this 18 day of September, 1943.

FRANCIS I. CHENEY

Treasurer

Cheney California Lumber Company

United States of America

Before the National Labor Relations Board

Case No. 20-C-1195

In the Matter of

CHENEY CALIFORNIA LUMBER COMPANY

and

**LUMBER AND SAWMILL WORKERS
LOCAL 2647.**

DECISION AND ORDER

On October 25, 1943, the Trial Examiner issued his Intermediate Report in the above-entitled proceeding, finding that the respondent had engaged in and was engaging in certain unfair labor practices, and recommending that it cease and desist from the unfair labor practices found and take certain affirmative action, as set out in the copy of the Intermediate Report attached hereto. None of the parties filed exceptions or briefs, or requested oral

argument before the Board at Washington, D. C. The Board has considered the rulings of the Trial Examiner at the hearing and finds that no prejudicial errors were committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.

ORDER

Upon the entire record in the case, and pursuant to Section 10(e) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Cheney California Lumber Company, Greenville, California, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging membership in Lumber and Sawmill Workers Local 2647, affiliated with the American Federation of Labor, or in any other labor organization of its employees, by discharging or refusing to reinstate any of its employees, or by discriminating in any other manner in regard to their hire and tenure of employment or any term or condition of their employment;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose

of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Offer Clayton Block, Ira Ware, Leslie Allan, and Lindsay Glenn immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights and privileges;

(b) Make whole Clayton Block, Ira Ware, Leslie Allan, and Lindsay Glenn for any loss of pay they have suffered by reason of the respondent's discrimination against them, by payment to each of them of a sum of money equal to the amount which he normally would have earned as wages from the date of his discharge to the date of the respondent's offer of reinstatement, less his net earnings during said period;

(c) Post immediately in conspicuous places in and about its sawmill plant located at Greenville, California, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to its employees stating: (1) that the respondent will not engage in the conduct from which it is ordered to cease and desist in paragraphs 1(a) and (b) of this Order; (2) that the respondent will take the affirmative action set forth in paragraphs 2(a) and (b) of this Order; and (3) that the respondent's employees are free to become and remain members of Lumber and Sawmill

Workers Local 2647, affiliated with the American Federation of Labor, and that the respondent will not discriminate against any employee because of his membership or activity in that or any other labor organization;

(d) Notify the Regional Director for the Twentieth Region in writing, within ten (10) days from the date of this Order, what steps the respondent has taken to comply herewith.

Signed at Washington, D. C., this 30 day of December, 1943.

[Seal]

GERARD D. REILLY

Member

JOHN M. HOUSTON

Member

National Labor Relations Board

[Title of Board and Cause.]

Mr. John Paul Jennings, for the Board,

Mr. Francis Cheney, of Medford, Ore.,
for the respondent.

INTERMEDIATE REPORT

Statement of the Case

Upon a charge duly filed June 1, 1943 by Lumber and Sawmill Workers, Local 2647, affiliated with the American Federation of Labor, herein called the Union, the National Labor Relations Board, herein called the Board, by the Regional Director

for the Twentieth Region (San Francisco, California), issued its complaint dated August 26, 1943, against Cheney California Lumber Company of Greenville, California, herein called the respondent, alleging that the respondent has engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8(1) and (3) and Section 2(6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint, accompanied by notices of hearing thereon, were duly served upon the respondent and the Union.

With respect to the unfair labor practices, the complaint alleged, in substance, that the respondent: (1) discharged Clayton Block and Ira Ware on or about March 19, 1943, and Leslie Allan and Lindsay Glenn on or about May 21, 1943, and has at all times since said dates refused and failed to reinstate said employees because of their membership in and activities on behalf the Union; discharged Allan and Glenn for the further reason that the respondent desired thereby to influence, and did influence, a Board election scheduled for, and held on May 22, 1943, for the purpose of determining whether the respondent's employees desired to be represented for collective bargaining purposes by the Union; (2) during approximately September and October 1942, informed its employees that it objected to their joining the Union, and that it might close the mill if the Union succeeded in organizing the employees; during March 1943, questioned its employees regarding their union affiliations, and

again advised its employees that it objected to their joining the Union and that they would be better off if they did not join the Union; but instead should discuss their problems with the respondent through a committee of employees; and (3) by the acts above described, the respondent has interfered with, restrained, and coerced its employees and is interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act.

Subsequent to the hearing and on or about September 26, 1943, the respondent filed its answer¹ in which it denied generally the commission of any unfair labor practices, and alleged affirmatively that it discharged Block, Ware, Allan and Glenn for cause.

Pursuant to notice, a hearing was held at Greenville, California, on September 14 and 15, 1943, before Peter F. Ward, the Trial Examiner duly designated by the Chief Trial Examiner. The Board and the respondent were represented by counsel. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues, was afforded all parties. At the close of the hearing, counsel for the Board made a motion, without objection, that the pleadings in the

(1) Up to the commencement of the hearing the respondent had filed no answer but requested and was granted the privilege of filing a formal answer after the close of the hearing.

proceedings be amended to conform to the proof. The motion was granted by the undersigned. Oral argument before the undersigned was waived by the parties. While all parties were afforded an opportunity to file briefs with the undersigned, none has been received.

Upon the entire record in the case and from his observation of the witnesses, the undersigned makes, in addition to the above, the following:

FINDINGS OF FACT

I. The business of the respondent

The respondent is a California corporation, organized early in 1942. It operates a sawmill near Greenville, California, where it is engaged in the manufacture, sale and distribution of lumber and lumber products, including railroad ties and studing. Its principal sales office is located at Tacoma, Washington. During the year ending June 30, 1943, the sales of the respondent amounted to approximately \$285,000. During the same period the respondent manufactured approximately 17,000,000 board feet of lumber. Approximately 8 percent of such total sales was of products sold and delivered outside the State of California. The balance of such sales was of products sold and delivered F.O.B. Greenville. Its principal manufactured product consists of railroad ties which are sold to the Western Pacific and the Southern Pacific railroads, with the preponderance of such sales going to the Western Pacific Railroad. B. B. Cheney, the respondent's president, testified that the respondent has contracts

for the sale of ties with "most all the transcontinental railroads in this country."

II. The organization involved

Lumber and Sawmill Workers, Local 2647, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the respondent.

III. The unfair labor practices

A. Interference, restraint, and coercion

The respondent first began operations at its Greenville, California sawmill early in 1942. The owners of the respondent corporation also operate the Cheney Lumber Company, Inc., of Tacoma, Washington, and other companies. Lionel Pease who had operated a sawmill for one of the other Cheney companies, was made general manager and put in charge of the respondent's Greenville mill.

In or about September 1942, Alvin Waitts, employed as an edgerman, undertook to organize the respondent's employees on behalf of the AFL. He succeeded in having 17 or 18 employees sign union application cards.

On or about September 20, Pease, having learned of the union activity in the sawmill, called the employees together after working hours and addressed them concerning the Union. In this connection, Waitts, credibly and without contradiction, testified:

Q. What did Mr. Pease say to you at that time?

A. He told us he'd rather we wouldn't join no Union. That he'd rather just have a one big happy family down there and we'd work it out with us and himself and the Company.

Q. Do you remember what evel (else) he had to say?

A. He told us that he'd pay us the Union scale and if we did join the Union that there was some was overpaid the Union scale and they would automatically have to come down to the Union scale.

Subsequently, Waitts asked Pease what he had against the Union and the latter replied, "Well, —I'll tell you. I don't like them, and—I don't want a damn thing to do with them." Waitts further testified:

Q. (By Mr. Jennings) Did Mr. Pease have anything further to say or did you have anything further to say at that time?

A. He told me—or, he had a kind of a story that if they [unions] got into a strike somewhere else that we'd have to kick in, you know and help *same* them, and all of that; and oh, that is about all he said at that time.²

(2) Pease was not called as a witness and all the testimony of this and succeeding witnesses who testified concerning statements and conduct attributed to Pease stands uncontradicted. The record discloses that Pease is no longer employed at the respondent's Greenville mill. Its failure to produce Pease as a witness is discussed below. See footnote No. 18 *infra*.

Harold Norberg, an employee who was present at the meeting, testified:

Q. Now, what did Pease say at that time?

A. Well, he brought the Union up the first thing; then he mentioned that he understood we was wanting a Union in there and he said he really didn't see why we needed any. He'd pay union scales and I don't remember if that was the time he granted seniority or not. I believe we had two meetings.

Lindsay Glenn, an employee, testified that in 1942 he "was fighting the union"; that at such meeting he heard Pease state: "I understand that you're trying to organize here,—I wanted to talk to all of you,—I pay top wages and—I don't want no union here. What we want to make out of this is something like a little family affair"; and that Pease continued, "I can't see what you want a union far, and pay out a dollar and a half a month or something like that."

At the time the above meeting was held Glenn worked from 12:00 noon until 8:00 o'clock p.m., as he filed saws after the mill closed down for the day. On the night of the meeting Pease and Glenn had a discussion concerning the Union, during which, according to Glenn, Pease stated: "Glenn, before I would operate under the Union, under the contract, I'd shut the god-damned thing down air tight." Employee Kenneth Blair testified that he was present at the time of Pease's speech. His version of the talk was as follows:

He just said that he didn't want a Union, and if there was anything that we wasn't satisfied with, to come to him and he'd see if he couldn't settle it with us without having a Union.

Employee William Beem, who was present at the Pease talk, testified:

Q. Do you remember what he [Pease] said?

A. Well, he said that he didn't care to have the Union started, said we (sic) were satisfied and didn't want it changed, he wanted it kept that way. Just like a big family there, and he hated to see the boys pay out hard earned money to keep up a union.

Following the meeting at which Pease had expressed his anti-union views, Beem talked to him in his office, and according to his testimony asked him "if he knew what he was doing in regards to fighting the Union" and testified that he [Pease] said "he didn't care much what he was doing. He was doing as his own duty—he was doing his duty."

Following the first meeting, above described, Pease held another meeting with the employees during which a discussion was had concerning wages and seniority. In this connection, Harold Norberg testified:

Q. And did he call the men together in the same fashion the second time?

A. Yes, and he told them that he'd grant them seniority and we decided that seniority was the main thing we wanted there because

there was a lot of the older men that weren't getting promoted the way they felt they should be and he said he'd see that they got seniority. So we told him well, if that was it we'd just drop the case of the Union.

Pease also suggested, according to Norberg, "that there should be a committee of three appointed to decide which ones should have seniority, which ones should have certain jobs and which ones were capable of handling them . . ."³ A committee composed of Jake Williams, Lindsay Glenn and Harry Major was appointed.

The committee subsequently held conferences with Pease in the latter's office, at one of which Pease submitted a working agreement which, Glenn testified, "looked good and [was] reported to all the men that it did."

As above stated Pease was not produced as a witness and the testimony of Waitts, Harold Norberg, Glenn, Blair and Beem, as set forth above, was not controverted or denied. Each of the above named witnesses appeared to be and impressed the undersigned as credible witnesses. From the above and upon the record it appears that the facts as testified to by said witnesses occurred substantially as testified to by them, and it is so found.

(3) Norberg did not fix the date of this second meeting. Glenn fixed it as having occurred in the spring of 1943. From all of the circumstances disclosed in the record the undersigned is of the opinion that such meeting was held before the seasonal shut-down of the mill, in 1942-3 and so finds.

After Pease had called the employees together as above set forth, and informed them that he did not want the Union in the mill, Waitts discontinued his organizational activities, because as he testified, "nobody would talk to me about the Union at all." "—They wouldn't talk union any more." Union activity became and remained dormant until on or about March 1943. At this time some of the employees had become dissatisfied with the numerous shut downs of the mill and were complaining of discrimination in the distribution of work.

On or about March 23, Boyd Wyatt, who was employed by the District Council of the Carpenters & Joiners, on behalf of the Lumber and Sawmill Workers, as an organizer, went to Greenville and undertook to organize the respondent's employees. The mill was not operating on March 24, and on that day Wyatt met a group of the employees in front of the local post office and found that, due to the fact that they felt they were being discriminated against, "they were just ripe to join the Union." Wyatt succeeded in signing up some sixteen employees to application cards in the course of thirty minutes on this occasion. By March 25, he had secured 3 to 5 additional signers and, on March 25 called on Pease and advised him that a majority of the mill employees had signed up in the Union, and asked Pease to negotiate a contract with the Union. Pease refused to do so and stated that he would rather have an election. According to Wyatt, Pease got "hot-headed" during the interview and

stated that he "would shut the God damned thing down . . . before he would let it go Union." Pease also stated that he doubted if the Union had a majority, whereupon Wyatt suggested that they call a National Labor Relations Board Examiner and have a cross-check of the cards against the mill pay roll. Pease countered with the suggestion that the matter be turned over to the Labor Board "so it could be carried out according to Hoyle." As is set forth below, an election agreement was subsequently entered into.*

Employee Ruel Smith testified credibly and without contradiction that he accompanied Wyatt when the latter called on Pease on March 25, and requested the latter to recognize the Union, which Pease refused to do. Smith took no part in the conversation but, on the same day when he asked Pease for his pay check in order that he could visit his brother at Pittsburg, California, who was about to be shipped over seas, Pease replied, "Okay, but I don't like to sign a union man's check."

As is set forth in detail in Section III B below, Ira Ware and Clayton Block, who each signed union application cards on March 24, were discriminatorily discharged. Ware was discharged on March 26 and Block on April 5.

(4) The testimony of Wiatts, Harold Norberg, Glenn, Blair, Bruce and Wyatt, above referred to is uncontroverted and, in the main, supported by corroborative testimony of other credible witnesses and circumstances.

During April 1943 Wyatt filed a Petition for Investigation and Certification under the provisions of Section 9(c) of the Act. Thereafter, a Field Examiner for the Board went to Greenville, where an agreement was entered into between the Board, the Union, and the respondent for the holding of a consent election. The date of the election was first fixed as of June 2, 1943, but due to the intercession of Leslie Allan, employed as a lumber spotter, and other employees who objected to the long delay, an agreement was reached on May 19 to the effect that the election should be held on the following Saturday, May 22. At the time the new date for the election was fixed, Wyatt designated Lindsay Glenn as an observer on behalf of the Union. Glenn and Allan were employed together on a certain operation described below. On May 21, both were discharged under instructions from Ben Cheney, respondent's president. Their discharges are discussed in detail in Section III B below.

The election was held pursuant to the agreement on May 22 at which time the respondent challenged the votes of Glenn and Allan, on the ground that they had been discharged for cause and were no longer employees of the respondent. They cast challenged votes. The result of the election, without the Glenn and Allan votes being counted, was 16 to 16, a tie vote.

B. The discriminatory discharges

The complaint alleges in substance that the respondent discharged Ware, Block, Allan and Glenn

because of their union activities and that Allan and Glenn were also discharged for the further reason that the respondent desired to and did thereby influence the results of the Board election held May 22, and referred to above.

The answer alleges affirmatively and in substance that the respondent discharged Block on or about March 19, 1943, for "his repeated failure to report for work on occasion too numerous to mention"; that it discharged Ware on or about March 19, 1943 "for reasons of willful failure and refusal to do the work assigned to him, thereby causing undue hardship on fellow employees; and that it discharged Allan and Glenn for willful disregard of its orders and "performing their work in such a manner as to cause the breakdown of machinery and the endangering of lives of fellow employees." The facts concerning each of the discharges are considered below.⁵

During March 1943, Ware, Block, and Albert Norberg discussed and advocated the Union with other employees. Among others, this pro-union group had an argument with Herman Higday (who had succeeded Jake Williams as foreman in 1943), Joe Josephson, and George Christiansen.⁶ During

(5) The evidence and the records of the respondent reflect that Block was discharged on April 5, 1943 and that Ware was discharged on March 26, 1943.

(6) Higday and Christiansen had accompanied Pease when the latter went from the State of Washington to Greenville to take charge of the respondent's sawmill.

this argument, Higday stated, according to the uncontradicted and credited testimony of Albert Norberg, as follows:

He [Higday] says if we didn't like where we was working and trying to cause trouble is what they thought it was to get the Union in there, why we could go some other place.

A few days after Norberg, Ware and Block's argument with Higday and the others, Albert Norberg was called to the office by Pease, who advised him that he (Norberg), Ware and Block were talking too much, and that if he did not stop such talking he would have to let Norberg go.

When Harold Norberg, a brother of Albert, learned of Pease's threat to discharge the latter, he called on Pease concerning such threat. According to the undisputed and credited testimony of Harold Norberg, Pease said that Block, Ware and Albert Norberg were doing too much talking and that he had already decided that he was going to discharge Block and Ware, and he thought he would have to discharge Albert Norberg too, "if he didn't quit talking so much." With reference to Ware, Norberg quoted Pease as saying, "He was stirring up too much trouble trying to get the men organized." Norberg further testified that he told Pease, that ". . . I thought he better leave him [Albert] on there or else I didn't care whether I stayed either." As a result of Harold Norberg's talk with Pease, Albert was permitted to continue to work.⁷

(7) On the day of this conversation, Pease had so fully determined to also discharge Albert Nor-

berg that he had had prepared and delivered to Norberg, not only his current pay check, but a check

Block testified credibly, without contradiction and the undersigned finds, that he was first employed by the respondent in May 1942 and worked during the entire season, except during a period in July 1942 when he had an appendicitis operation. He worked continuously thereafter except for the seasonal shut-down during the winter of 1942-1943, and on March 18, 1943, he went to the hospital with an infected finger, where he remained until March 23, when he was discharged from the hospital. On March 24, while en route to the doctor's office, he passed the post office where a group of the employees were signing union application cards, and he too joined the group and signed a union card. Jake Williams, who had acted as foreman in 1942, was present near the group of signers at this time.

During the time Block was absent from work due to *his* infected finger he spent part of the time about the mill. He testified, without going into detail, that on one occasion Pease tried to "explain to us where he thought we was wrong about the Union," and that, on this occasion Foreman Higday

for the immediately preceding work which customarily was held up and paid the following week. Such payments in full were only made on the occasion of a discharge. Notwithstanding this, however, and entirely because of Harold Norberg's intercession, the discharge of Albert was not made effective.

referred to the "stir-up" about the Union as an "Oakie-flourish."

Block was released for duty by his doctor and returned to work on April 5. He was immediately sent to Pease by Higday. Pease advised him that he could use him no longer and discharged him, giving as his reason that his "work was no good." Block was given a termination slip which recited that the reason for the discharge was "Failure to do his work." Upon Block's protest, Pease later replaced the termination slip with another one which recited "To take a more essential job in logging industry for Alton Jacks." Block was subsequently employed by Jacks.⁸

Following Block's discharge, Wyatt called on Pease concerning the matter and asked why Block was discharged. Pease replied that he had "discharged Clayton Block because he was absent from work so much . . ."

Other than Block's testimony that Pease told him that he was discharged because his "work was no good" and the statement made by Pease to

(8) Actually, Block had made a tentative arrangement to go to work for Alton Jacks at such later date as Jacks' operation could use him, and intended to quit the respondent's employ within a few weeks, at the time he was discharged. The record does not reflect how or whether this information reached Pease, although Block testified that, when he was discharged he announced to a group of employees at the mill that "I didn't care if Lionel did fire me, that I was going to quit in a couple of weeks anyway, because I had a job with Mr. Jacks."

(9) This reason was not alleged in the answer, notwithstanding the answer was not prepared or filed until after the close of the hearing.

Wyatt that Block was discharged because he was "absent from work so much," there is no evidence to support the allegation of the answer that Block failed to report for work "on occasions too numerous to mention." While Pease was not produced as a witness, assuming arguendo that the respondent could not have produced Pease as a witness, it could have introduced employment records showing the days the mill operated and the days that Block was at work. This it did not do. The record discloses that Block was absent on two occasions when confined to a hospital and did not otherwise unduly absent himself from work, and it is so found. From the foregoing it is found that some days prior to April 5, 1943, while Block was absent because of illness, the respondent determined to discharge him because of his activities on behalf of the Union; that his work had not theretofore been a subject of criticism and that he had, in fact, been regular in his attendance at work except when sick and away from his work on instructions from his doctor, of which the respondent was fully advised, and that on his return to work on April 5, the respondent did, in fact discharge him for the reason that he had engaged in union activities and not for the other reasons above set forth.

Ware was first employed by the respondent on or about July 1, 1942 and worked continuously until the seasonal shut-down for the winter of 1942-1943. During the shut-down he was employed at Hurlong,

Minnesota, on a war job. Prior to March 1, 1943, Ware got in touch with Pease and asked him if it would be advisable to quit his Hurlong job and return for work at the mill. Pease replied, "I might not be able to put you on immediately, but [will] within a few days." Ware finished out the month at Hurlong and returned to Greenville about March 1, and shortly thereafter Pease returned him to work. Prior to his discharge Ware's work had never been criticized by Pease or by the foreman.¹⁰

Ware had been a member of the A. F. of L. for about 3½ years and during his entire employment with the respondent, consistently wore a union button. On March 24 he signed a further designation card with the Union at the post office, and assisted in having others sign application cards. He was one of the group of three composed of Albert Norberg, Block and himself who, shortly before, had argued with Higday, Josephson, Christiansen and other anti-union employees, on behalf of the Union. As found above, Pease complained to the Norberg brothers that Ware "was stirring up too much trouble about the Union." On March 26, Williams, the former foreman, asked Ware if those who had signed union cards had a right to back out if they wanted to, and was advised by Ware that he did not think so. On or about March 22, Ware made arrangements with Pease to go to Reno, Nevada, with his son who was seeking to join the

(10) These findings are based upon the credible and uncontradicted testimony of Ware.

United States Navy, and thus did not work from on or about March 21 until March 26. When Ware returned to work on March 26, Pease met him and told him that he would not need him any more. When Ware asked the reason for his discharge, Pease replied that Ware let the other men "on the pond" do all his work. Ware responded, "The reason you are letting me go is because you know I'm pretty heavily in these union activities." Pease replied "No." . . . "You can leave it to the boys." . . . "You left all your work for them to do, wouldn't put the logs up." However, the respondent produced no testimony to support this.

When Wyatt sought to learn the reason for Ware's discharge, Pease advised him "for failure to do his work," and that "one other man" had complained about Ware's work. Pease also advised Wyatt that he wanted to "can" Ware "before the Union came into existence" and that he was "doing it now because later, when the Union came in he wouldn't be able to." Ware got a job about a month after his discharge and had made efforts to get one prior to that time.¹¹

(11) Following his discharge Ware applied without success for employment at the other local mills, at least one of which could not employ him because it had not yet gone into production. He could have obtained employment in other communities but was unwilling to leave his home in Greenville for that purpose. He remained unemployed for about a month when he obtained a job in a local box factory and was still employed there at the time of the hearing.

Other than the foregoing, there is no evidence in the record to support the contention of the respondent that Ware was discharged for willful failure to do his work, "thereby causing undue hardship on his fellow employees." As above found, Pease was not produced as a witness nor were any of the "fellow employees" called to support the respondent's contentions.

In view of the above and the record and Pease's statement to the Norberg brothers that Ware talked too much and "was stirring up too much trouble trying to get the men organized," and in the light of the respondent's anti-union background, particularly as disclosed by Pease's actions, it is clear and the undersigned finds that Ware was discharged on March 26, for the reason that he engaged in union activities.

In order that the contentions of the parties concerning the discharge of Glenn and Allan may be discussed with some clarity, it is necessary to consider certain operations having to do with the "edger" on which they were jointly employed. An edger is operated directly by an edgerman, a lumber spotter and a strip catcher. The timber comes to the edgerman in "slabs" 8 feet long, by means of rolls and is fed onto an edger table about 7 feet wide. Here it is handled by a lumber spotter whose duty it is to spot the lumber against the straight edge (saws). He straightens the lumber on the chain (by which it is moved forward) in order that both sides may be trimmed as the lumber goes through the saw. A lumber spotter must also pull

out any "bad" lumber. From the edger the lumber, 2 x 4's in this case, goes to planer.

A strip catcher's duty is to catch the strips or edgings that are cut from the lumber (2 x 4's) and dispose of them in the proper place. Under the edger table and the big chain that transports the lumber is a "big" conveyer which carries refuse to the burner for disposal. Prior to the spring of 1943, all strips and bad lumber were thrown into the big conveyer, except that for a time when it was piled on "horses" to be trucked away and used for fuel.

Approximately in April 1943, the respondent constructed a second conveyer, called the "hog," which was built along the side of the edger table on which the strip catcher worked. The hog was elevated and carried strips and bad lumber to a point where the material is ground up or "hogged" and made ready for burning or disposal otherwise.

Short strips or short pieces of bad lumber if not caught or handled by either the strip catcher or lumber spotter, would "rake off" into the big conveyer and would on occasion catch on a "bucket" and cause the chain to break, unless a man was posted at a certain point on the big conveyer to abstract them.

The speed at which lumber may go through the edger is determined by the amount of lumber delivered to the edgerman. "If it comes in fast you have to shoot it through fast," and the strip catchers

have got to handle it." It was necessary at times for the lumber spotter to climb upon the edger table to get short strips. This could be done if lumber does not come through too fast. Subsequent to the time Glenn and Allan were discharged, a bell was installed for use by the strip catcher with which to notify the edgerman when the lumber started piling up. Also subsequent to the discharge of Glenn and Allan, a new conveyer chain was installed.

Glenn, who had worked at "sawmilling" some 15 to 20 years, was employed by the respondent in February 1942. He first worked at building the mill and repairing. After the mill went into operation he worked on different jobs and was eventually assigned to a yard job with a raise in pay. Thereafter he was assigned to fill different vacancies of absent employees as they occurred. He in effect became a utility man, and so continued until on or about April 1943. As found above he was opposed to the Union in 1942. He became a member of the committee proposed by Pease. During March 1943, he took time off to visit a son at San Francisco who is in the military service, and returned about March 27. Upon being advised that a majority of the employees of the respondent had joined the Union, he decided to do likewise and signed a union application card on March 27.

Glenn then talked with Pease. In this connection, Glenn testified:

Well, I says, "Lionel, she went Union while I

was gone" and he said "No." I said, "Yes, the majority signed up." And I said, "I signed up," and when I said that he said, "Well, Glenn!—"

He further testified that Pease contended the Union had not signed a majority, and when Glenn insisted to the contrary, Pease replied, "They just told you a go-damned (sic) lie to get you to sign." When Glenn informed Pease that he had seen the cards and told that he had signed, the conversation ended. Prior to his joining the Union, Pease was always friendly toward Glenn. Thereafter he would pass Glenn without speaking.

Upon his return from San Francisco, Glenn worked on the chain a day or two and then was assigned to the edger as a strip catcher. At about this time, Glenn sought to claim an oiling job through his claim of seniority, and in company with Harold Norberg, called on Pease on Sunday to discuss it. Pease said that he would lose four or five men if he gave the job to Glenn. Through Norberg's insistence Pease agreed that the men could vote on it on Monday, the following day. On Monday, Glenn canvassed the employees and explained the plan for a vote to them. Pease, however, refused to permit the vote to be taken and gave the oiler job to George Christiansen, who was actively opposed to the Union.

Glenn succeeded in signing 11 employees to union applications and was otherwise active on behalf of the Union. He wore his union button, which caused Foreman Higday to remark: "—that God-damned

button you got don't mean nothing, nothing but a damn fool would wear that anyway."

On May 19, and after the election referred to above was set for May 22, Wyatt designated Glenn as the Union's observer at the election. On May 20 Higday kept unusually close watch over Glenn and on a number of occasions accused him of throwing short strips in the big conveyer, a charge Glenn denied and suggested that Higday talk to Allan, who as is set forth below, had permission to use the big conveyer when necessary. President Cheney also kept a more or less close scrutiny over Glenn on this day. Glenn, who realized that he was being closely watched, exerted himself in an effort to properly perform his job.¹² Glenn's discharge on May 21 is discussed in conjunction with Allan's discharge set forth below.

Allan, a brother-in-law of employee Blair, was employed by Pease on or about April 15, 1943 following some correspondence between the parties. At the time he was employed he asked Pease if the job was "unionized or not," and Pease answered, "No." Allan stated that he was a "union member, and wanted to know." Allan added, "It won't interfere with my work." After working as a slasher

(12) The evidence reflects that, with the conveyer then in use, short strips falling or thrown on it frequently became caught and caused the conveyer chain to break unless a man was specially stationed to free them. This condition is intimately connected with the discharge of Glenn and Allan and is dealt with at length in conjunction with Allan's discharge.

for two days Allan took over the lumber spotter's job and thereafter worked on the edger table with Glenn. When he first started to work Allan threw all the strips into the big conveyer, the hog not having been installed. On occasion it was necessary for him to climb upon the edger table to recover short strips. This he could do if lumber was not coming through too fast.

After Allan had been at work for a time the hog conveyer was installed, after which he was instructed to and did put all "possible" strips into the hog conveyer. After the hog conveyer had been in operation for a time, the respondent caused the big conveyer to be "boxed" to the end that it would be impossible for strips to be thrown into it. As a result of such "boxing" short strips, not finding an outlet into the big conveyer, would cause the lumber to pile up, making it necessary for Allan to climb onto the table and release the piled-up lumber. Allan then told Higday that unless the floor was taken off the big conveyer "to where those short ones go through," he would quit. Higday refused to remove the floor and Allan did quit.

Thereafter the respondent assigned two of its "best men" to handle the lumber and determine whether it was necessary to take the floor out or not. On the following day Allan returned to the mill for his release and Higday asked him if he would take his job back. Allan replied that he would do so if he "could throw these strips under [into] the conveyor that it is impossible for me to

get in the hog, I'll take it back. Otherwise, no soap." Higday told him to take the job on those conditions and he did so. Thereafter neither Pease nor Higday ever told Allan not to throw strips into the big conveyer. He continued to use the big conveyer for strips that he was unable to put in the hog conveyer. He so used it on May 20, at the time when Higday was criticizing Glenn concerning the strips.¹³

Allan was a member of the United Brotherhood of Carpenters and Joiners when he was hired. On April 15 he signed a further designation with Local 2647. Prior to the scheduled election he was requested to solicit three employees for membership whom the Union "seemed to be afraid to approach." Allan talked to the three men and succeeded in signing one to a union application.

Allan was the "ringleader" of the group of employees who sought to have the election moved up from June 2 to May 22.

As a result of Higday's "raising the devil" with Glenn on May 20, he and Allan decided to discuss the matter in person with Cheney. Allan contacted Cheney and asked for an appointment. Cheney told Allan that he (Cheney) would see Pease and ad-

(13) These findings are based on the credible and uncontradicted testimony of Allan. Higday, though not shown to be unavailable, was not produced as a witness. Cheney, in his testimony, referred to Allan's conduct in this instance as "the kiddish fit" but did not dispute the fact that Allan returned to work under the conditions related above.

vise them what time Cheney could see them. Cheney later fixed the time for the meeting as 7:00 o'clock on the night of that day. Later Glenn concluded that "it wouldn't be worth while to talk to" Cheney, and Allan cancelled the date.

When Glenn and Allan reported for work on May 21, Higday sent them to the office to see Pease. When Pease arrived he told them that the strips they threw into the big conveyer caused a breakdown, but did not tell them they were fired. Cheney, however, did state that they were fired. Pease then issued termination slips to them which recited that each "left voluntarily." Many of the employees gathered around the office and threatened to go on strike, but returned to work after Glenn had advised them to do so.¹⁴

On May 22 Glenn acted as observer of the election as the Union's representative and both voted challenged ballots.

The respondent contends in substance and effect that Glenn and Allan were discharged for throwing strips into the big conveyer. In support of such contention Cheney testified that he personally requested them not to throw such strips into the big conveyer. Both Glenn and *and* Allan denied that result of the discharges, and did not return. Cheney made such a request. The undersigned does not credit Cheney's testimony in this regard.¹⁵

(14) Three employees did quit their jobs as a

(15) See footnote No. 19.

The record clearly discloses that Higday did accuse Glenn of putting short strips into the big conveyer and that in each instance Glenn told Higday that he was not putting the strips in such conveyer and advised Higday to talk to Allan. The credible evidence discloses that Allan was putting the short strips that he could not get into the hog conveyer into the big one, and that no one cautioned him against so doing. This was all pursuant to his arrangement with Higday as described above.¹⁶ On the evidence and the record, the undersigned is convinced and finds that Glenn did not throw any strips into the big conveyer on May 20, and that Allan did so only to the limited extent necessary.

The record discloses that it is not possible even with the new conveyer chain which the respondent installed in June 1943 and after the Glenn and Allan discharges, to keep strips out of the conveyer. Ernest Davis, who succeeded to Glenn's strip catcher job, called as a witness for the respondent, testified that the small strips that break up do fall through into the conveyer. Also, in this connection Waitts testified without dispute, "but the short ones that come out there, sometimes in spite of all

(16) It should be noted that the undisputed evidence discloses that at the time Allan quit his job, as above set forth, the big conveyer had been "boxed" over or floored so that it was impossible for strips to be thrown into it. Since it was possible for strips to be thrown into it on May 20, the flooring must have been removed, and the undersigned so finds.

you can do you can't keep them from it [conveyer]."

It is clear from the record and undisputed that the conveyer chain in question was an old one which broke down frequently both before and after Glenn and Allan worked on the edger table, and from causes other than and in addition to short strips being thrown into it. It is significant that since the discharge of Glenn and Allan a new conveyer chain has replaced the old one and a bell system has been added to permit the strip catchers to warn the edgerman when the lumber is coming through too fast.

In view of the foregoing and the record, it appears that the respondent's officers and agents, being opposed to the Union and seeking a means of influencing the election results, deliberately harassed Glenn by false accusations on May 20, and in order to deprive the Union of the benefit of their votes at the forthcoming election, on May 21 discharged Glenn and Allan because of their union activities and in order to adversely influence said election, and it is so found.¹⁷

C. Concluding findings

As found above Alvin Waitts during on or about September 1942 initiated a movement for the purpose of organizing the respondents' employees and

(17) At the time of the hearing Glenn was employed at the Bethlehem Shipyards, Alameda, California, and Allan was employed by Yuba Manufacturing Co., Benicia, California.

succeeded in procuring from the employees 17 or 18 signed applications for union membership. When Pease learned of the union activity, he called the employees together and advised them that he was opposed to having a union at the mill and preferred that they have "one big happy family" there instead. Pease stated that he would pay the union scale of wages and in effect he warned the men that since some were paid more than the union scale, their wages would be automatically reduced in the event the union came into the mill. He advised certain employees privately that if the union came in he would "shut the god-damned thing down." Pease told Waitts that in the event the Union came in and subsequently had strikes elsewhere the employees would have to "kick in" and help save them. As found above Pease held a second meeting at which he agreed to grant seniority to the mill employees and suggested that the employees select a committee to pass on questions of seniority. After the committee was appointed as suggested Pease submitted a proposed agreement, which "was better than the Union."

After Pease had voiced his opposition to the Union in September 1942, union activity discontinued completely and did not revive until about March 1943. At this time Pease again took steps to discourage such activity, first by the discharge of Ware and Block and subsequently by the discharge of Glenn and Allan. The latter discharge occurred on the eve of an election held on May 22

to determine whether the Union should be selected as the bargaining representative.

Also, as found above, Pease, Foreman Higday and former Foreman Williams made anti-union statements to a number of the employees none of which are denied in the record.¹⁸

The respondent offered no affirmative proof in

(18) Neither Pease, Higday or Williams, although not shown to be unavailable were called as witnesses. The record discloses that these three left the respondent's Greenville Mill in June 1943, and that Pease was employed for a time in one of the mills belonging to the Cheney family. The respondent at no time pleaded surprise or asked for a continuance of the hearing in order to secure the attendance of Pease or the former foreman named in the testimony herein. President Cheney testified that he did not know the whereabouts of Pease, but stated in substance, that he understood that Pease had planned to acquire a sawmill of his own. The Cheneys operate a number of mills in the Pacific coast states and have spent many years in the lumber industry. The undersigned is convinced that if the respondent had desired the presence of Pease and the foremen at the hearing herein, it would have had no difficulty in locating them and either had them attend the hearing or caused their depositions to be taken. In view of the fact that the respondent did not claim surprise or request a continuance and did not make arrangements to have them present, the undersigned is of the opinion and finds that the respondent would not expect Pease and the foremen to deny many of the statements and acts attributed to them, as above set forth. This conclusion is strengthened by the fact that the respondent offered proof and stressed the fact that the present general manager and foreman have engaged in no anti-union activities.

support of the reasons alleged in its answer for the discharge of Ware and Block. In support of its alleged reasons for the Glenn and Allan discharges it relies in the main on the testimony of President Cheney,¹⁹ who testified that he personally told Glenn and Allan not to throw strips into the big conveyer and that they nevertheless did so. The undersigned

(19) Cheney did not impress the undersigned as a credible witness. He denied having ever discussed the Union affiliation of the men with Pease or that he knew of Pease's activities in connection with the Union. The undersigned does not believe that Pease would have taken the steps which he did to stifle the union's efforts; grant them seniority; and propose an agreement without Cheney's consent or at least without his knowledge. It is improbable that Pease would grant seniority without telling Cheney of the fact that the men accepted the agreement for it in lieu of the Union, as was testified to by Harold Norberg.

La Fleur, the present manager who was at the mill in April 1943 installing the hog and other machinery, Manning, a sawyer who admitted his antagonism to the Union and Pettie, a planner man, all testified that Allan and Glenn had been instructed not to throw strips in the conveyer after the hog was installed. In view of Allan's undisputed testimony that Higday had authorized him to do so when necessary and the fact that he did so without objection from Higday, this testimony is not credited as to Allan being instructed to *reframe* from using the conveyer. On the contrary, it is found that Allan so used the conveyer by special permission from Higday. As to Glenn, it is found that he had been so instructed and that he followed such instructions at all times, although there was occasions over which Glenn had no control when strips would fall into the conveyer from the edger table.

is convinced that the operations of May 20 were no different than on other days, except that there was a premeditated effort on the part of Higday to harrass Glenn in order to have a pretext to justify his discharge prior to the election.

While the record discloses that Peace promptly accepted the suggestion that the consent election be moved up from June 2 to May 22, it also discloses considerable unrest existed among the employees, which unrest resulted in most of the men leaving their work upon learning of the discharge of Glenn and Allan on May 21.

Upon all the evidence and on all of the circumstances in this case, the undersigned is convinced and finds that by discharging Ira Ware on March 26, 1943, Clayton Block ~~on~~ April 5, 1943, Lindsay Glenn and Leslie Allan on May 21, 1943, the respondent discriminated in regard to their hire and tenure of employment, thereby discouraging membership in the Union, and by the statements and activities of the General Manager, Lionel Pease, and its Foremen Herman Higday and Jake Williams,²⁰ the respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

IV. The effect of the unfair labor practices upon commerce

The activities of the respondent set forth in Section III above, occurring in connection with the

(20) Jake Williams was a foreman during all of 1942 and a part of 1943.

operations of the respondent described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. The remedy

Having found that the respondent has engaged in certain unfair labor practices, the undersigned will recommend that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

The undersigned has found that the respondent has discriminated in regard to the hire and tenure of employment of Clayton Block, Ira Ware, Leslie Allan, and Lindsay Glenn, thereby discouraging membership in the Union. In order to effectuate the policies of the Act, it will be recommended that the respondent offer to Clayton Block, Ira Ware, Leslie Allan, and Lindsay Glenn and to each of them, immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights and privileges, and that it make them whole for any loss of pay they may have suffered by reason of the discrimination against them, by payment to each of them of a sum of money equal to the amount which each normally would have earned as wages during the period from the date of the discrimination against him, to the date of the offer of reinstate-

ment, less his net earnings²¹ during such period.

Upon the basis of the above findings of fact and upon the entire record in the case, the undersigned makes the following:

CONCLUSIONS OF LAW

1. Lumber and Sawmill Workers, Local 2647, affiliated with the American Federation of Labor, is a labor organization within the meaning of Section 2(5) of the Act.

2. The respondent, by discriminating in regard to the hire and tenure of employment of Clayton Block, Ira Ware, Leslie Allan, and Lindsay Glenn, thereby discouraging membership in a labor organization, has engaged in and is engaging in unfair labor practices, within the meaning of Section 8(3) of the Act.

3. The respondent, by interfering with, restraining, and coercing its employees in the exercise of

(21) By "net earnings" is meant earnings less expenses, such as for transportation, room, and board, incurred by an employee in connection with obtaining work and working elsewhere than for the respondent, which would not have been incurred but for his unlawful discharge and the consequent necessity of his seeking employment elsewhere. See Matter of Crossett Lumber Company and United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local 2590, 8 N.L.R.B. 440. Monies received for work performed upon Federal, State, county, municipal, or other work-relief projects shall be considered as earnings. See Republic Steel Corporation v. N.L.R.B., 31 U.S. 7.

the rights guaranteed them in Section 7 of the Act, has engaged in and is engaging in unfair labor practices, within the meaning of Section 8(1) of the Act.

4. The aforesaid unfair labor practices are unfair labor practices affecting commerce, within the meaning of Section 2(6) and (7) of the Act.

Recommendations

Upon the basis of the above findings of fact and conclusions of law, the undersigned recommends that the respondent, Cheney California Lumber Company, and its officers, agents, successors and assigns shall:

1. Cease and desist from:

(a) Discouraging membership in Lumber and Sawmill Workers, Local 2647, affiliated with the American Federation of Labor, or any other labor organization of its employees by discharging or refusing to reinstate any of its employees, or in any other manner discriminating in regard to their hire and tenure of employment, or any term or condition of employment;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the undersigned finds will effectuate the policies of the Act:

(a) Offer to Clayton Block, Ira Ware, Leslie Allan, and Lindsay Glenn, immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority and other rights and privileges;

(b) Make whole Clayton Block, Ira Ware, Leslie Allan, and Lindsay Glenn for any loss of pay they may have suffered by reason of the respondent's discrimination against them, by payment to each of them of a sum of money in the manner set forth in the above section entitled, "The remedy";

(c) Post immediately in conspicuous places in and about its sawmill plant located at Greenville, California, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to its employees stating: (1) that the respondent will not engage in the conduct from which it is recommended that it cease and desist in paragraph 1(a) and (b) of these recommendations; (2) that it will take the affirmative action set forth in paragraph 2(a) and (b) of these recommendations; and (3) that the respondent's employees are free to become or remain members of Lumber and Sawmill Workers Local 2647, affiliated with the American Federation of Labor, and that the respondent will not discriminate against any employee because of membership in or activity on be-

half of that or any other labor organization;

(d) Notify the Regional Director for the Twentieth Region in writing within ten (10) days from the receipt of this Intermediate Report, what steps the respondent has taken to comply herewith.

It is further recommended that unless on or before ten (10) days from the receipt of this Intermediate Report the respondent notifies said Regional Director in writing that it has complied with the foregoing recommendations, the National Labor Relations Board issue an order requiring the respondent to take the action aforesaid.

As provided in Section 33 of Article II of the Rules and Regulations of the National Labor Relations Board, Series 2—as amended, effective October 28, 1942—any party may within fifteen (15) days from the date of the entry of the order transferring the case to the Board, pursuant to Section 32 of Article II of said Rules and Regulations, file with the Board, Rochambeau Building, Washington, D.C., an original and four copies of a statement in writing setting forth such exceptions to the Intermediate Report or to any other part of the record or proceeding (including rulings upon all motions or objections) as he relies upon, together with the original and four copies of a brief in support thereof. As further provided in Section 33, should any party desire permission to argue orally before the Board, request therefor must be made in writing to the Board within ten (10) days from the date of the order transferring the case to the Board.

Dated: October 25, 1943.

PETER F. WARD
Trial Examiner

No. 10787

In the United States Circuit Court of Appeals
for the Ninth Circuit

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

v.

CHENEY CALIFORNIA LUMBER COMPANY,
Respondent.

PETITION FOR ENFORCEMENT OF AN
ORDER OF THE NATIONAL LABOR RE-
LATIONS BOARD

To the Honorable, the Judges of the United States
Circuit Court of Appeals for the Ninth Circuit:

The National Labor Relations Board, pursuant to
the National Labor Relations Act (Act of July 5,
1935, 49 Stat. 449, c. 372, 29 U.S.C. §151 et seq.), re-
spectfully petitions this Court for the enforcement
of its order against respondent, Cheney California
Lumber Company, Greenville, California, and its
officers, agents, successors, and assigns. The pro-
ceeding resulting in said order is known upon the
records of the Board as "In the Matter of Cheney
California Lumber Company and Lumber and Saw-
mill Workers Local 2647, Case No. 20-C-1195."

In support of this petition, the Board respectfully shows:

(1) The unfair labor practices which are the subject of the present proceeding occurred in the State of California within this judicial circuit. This Court therefore has jurisdiction of this petition by virtue of Section 10(e) of the National Labor Relations Act.

(2) Upon all proceedings had in said matter before the Board, as more fully shown by the entire record thereof certified by the Board and filed with this Court herein, to which reference is hereby made, the Board, on December 30, 1943, duly stated its findings of fact, conclusions of law and issued an order directed to the respondent, and its officers, agents, successors, and assigns. The aforesaid order provides as follows:

Order

Upon the entire record in the case, and pursuant to Section 10(e) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Cheney California Lumber Company, Greenville, California, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discouraging membership in Lumber and Sawmill Workers Local 2647, affiliated with the American Federation of Labor, or in any other labor organization of its employees, by discharging or refusing to reinstate any of its employees, or by discriminating in any other manner in regard to

their hire and tenure of employment or any term or condition of their employment;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Offer Clayton Block, Ira Ware, Leslie Allan, and Lindsay Glenn immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights and privileges;

(b) Make whole Clayton Block, Ira Ware, Leslie Allan, and Lindsay Glenn for any loss of pay they have suffered by reason of the respondent's discrimination against them, by payment to each of them of a sum of money equal to the amount which he normally would have earned as wages from the date of his discharge to the date of the respondent's offer of reinstatement, less his net earnings during said period;

(c) Post immediately in conspicuous places in and about its sawmill plant located at Greenville, California, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to its employees stating: (1) that the respond-

ent will not engage in the conduct from which it is ordered to cease and desist in paragraphs 1(a) and (b) of this Order; (2) that the respondent will take the affirmative action set forth in paragraphs 2(a) and (b) of this Order; and (3) that the respondent's employees are free to become and remain members of Lumber and Sawmill Workers Local 2647, affiliated with the American Federation of Labor, and that the respondent will not discriminate against any employee because of his membership or activity in that or any other labor organization;

(d) Notify the Regional Director for the Twentieth Region in writing, within ten (10) days from the date of this Order, what steps the respondent has taken to comply herewith.

(3) On December 30, 1943, the Board's decision and order was served upon respondent by sending a copy thereof postpaid, bearing Government frank, by registered mail, to Mr. Francis Cheney, respondent's attorney in Medford, Oregon.

(4) Pursuant to Section 10(e) of the National Labor Relations Act, the Board is certifying and filing with this Court a transcript of the entire record in the proceeding before the Board, including the pleadings, testimony and evidence, findings of fact, conclusions of law, and order of the Board.

Wherefore, the Board prays this Honorable Court that it cause notice of the filing of this petition and transcript to be served upon respondent, and that this Court take jurisdiction of the proceeding and of the questions determined therein and make and enter upon the pleadings, testimony and evidence

and the proceedings set forth in the transcript, and upon the order made thereupon set forth in paragraph (2) hereof, a decree enforcing in whole said order of the Board and requiring respondent to comply therewith.

**NATIONAL LABOR RELATIONS
BOARD**

By **MALCOLM F. HALLIDAY**

Associate General Counsel

Dated at Washington, D. C., this 20th day of May, 1944.

District of Columbia—ss.

Malcolm F. Halliday, being duly sworn, states that he is Associate General Counsel of the National Labor Relations Board, petitioner herein, and that he is authorized to and does make this verification in behalf of said Board; that he has read the foregoing petition and has knowledge of the contents thereof; and that the statements made therein are true to the best of his knowledge, information and belief.

MALCOLM F. HALLIDAY

Associate General Counsel

Subscribed and sworn to before me this 20th day of May, 1944.

[Seal] **JOHN E. LAWYER**

Notary Public, District of Columbia

My Commission expires August 31, 1944.

[Endorsed]: Filed May 29, 1944. Paul P. O'Brien, Clerk.

[Title of Board and Cause.]

Pursuant to Section 6 of Rule 19 of the Court, the Board hereby submits to the Court the following statement of points upon which it intends to rely in the trial of the above-entitled cause:

I.

The National Labor Relations Act is applicable to respondent and the employees here involved.

II.

The Board's findings of fact are supported by substantial evidence. Upon the facts so found, respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(1) and (3) of the Act.

III.

The Board's order is wholly valid and proper under the Act.

MALCOLM F. HALLIDAY

Associate General Counsel

National Labor Relations Board

Dated at Washington, D. C., this 23 day of May, 1944.

[Endorsed]: Filed May 29, 1944. Paul P. O'Brien, Clerk.

CCA No. 10787

ORDER TO SHOW CAUSE

United States of America—ss.

The President of the United States of America

To Cheney California Lumber Company, Greenville, California and Lumber & Sawmill Workers, Local 2647 U. O. Box 253, Greenville, California, Greeting:

Pursuant to the provisions of Subdivision (e) of Section 160, U.S.C.A. Title 29 (National Labor Relations Board Act, Section 10(e)), you and each of you are hereby notified that on the 29th day of May, 1944, a petition of the National Labor Relations Board for enforcement of its order entered on December 30, 1943, in a proceeding known upon the records of the said Board as "In the Matter of Cheney California Lumber Company and Lumber and Sawmill Workers Local 2647, Case No. 20-C-1195" and for entry of a decree by the United States Circuit Court of Appeals for the Ninth Circuit, was filed in the said United States Circuit Court of Appeals for the Ninth Circuit, copy of which said petition is attached hereto.

You are also notified to appear and move upon, answer or plead to said petition within ten days from date of the service hereof, or in default of such action the said Circuit Court of Appeals for the

Ninth Circuit will enter such decree as it deems just and proper in the premises.

Witness the Honorable HARLAN FISKE STONE,
Chief Justice of the United States, this 29th
day of May in the year of our Lord one thou-
sand nine hundred and forty-four.

PAUL P. O'BRIEN
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

RETURN ON SERVICE OF WRIT

United States of America,—
Northern District of California—ss.

I hereby certify and return that I served the an-
nexed Order to Show Cause on the therein-named
Cheney California Lumber Company by serving
M. A. Disch, manager by handing to and leaving a
true and correct copy thereof with M. A. Disch per-
sonally at Greenville in said District on the 10th
day of June, 1944.

GEORGE VICE
U. S. Marshal

By JOHN V. O'BRIEN
Deputy

RETURN ON SERVICE OF WRIT

United States of America,—
Northern District of California—ss.

I hereby certify and return that I served the an-
nexed Order to Show Cause on the therein-named

Lumber & Sawmill Workers, Local 2647 by serving Ben Garfield *Secretary* of Union by handing to and leaving a true and correct copy thereof with Ben Garfield personally at Greenville in said District on the 10th day of June, 1944.

GEORGE VICE

U. S. Marshal

By JOHN V. O'BRIEN

Deputy

[Endorsed]: Filed June 14, 1944. Paul P. O'Brien,
Clerk.

Before the National Labor Relations Board

Twentieth Region

Case No. 20-C-1195

In the Matter of

CHENEY CALIFORNIA LUMBER COMPANY

and

LUMBER AND SAWMILL WORKERS

LOCAL 2647.

Town Hall,
Greenville, California,
September 14, 1943.

The above-entitled matter came on for hearing,
pursuant to notice, at 10:00 o'clock a.m.

Before:

Peter F. Ward, Trial Examiner.

Appearances:

John Paul Jennings, 1095 Market Street, San Francisco, California, appearing on behalf of the National Labor Relations Board.

Francis Cheney, Box 928, Medford, Oregon, appearing on behalf of the Cheney California Lumber Company. [1*]

B. B. CHENEY,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Jennings) Mr. Cheney, you are an officer [6] of the Respondent, Cheney California Lumber Company; is that correct?

A. Yes.

Q. What office do you hold?

A. President.

Q. When was the Cheney California Lumber Company incorporated approximately?

A. I think some time in 1942.

Q. May of 1942?

A. The early part of '42, yes.

Q. And where is it incorporated?

A. It's incorporated in the state of California.

Q. Now, is the Cheney California Lumber Company—strike that. In what business is the Cheney California Lumber Company engaged?

*Page numbering appearing at top of page of original certified Transcript of Record.

(Testimony of B. B. Cheney.)

A. The manufacturing of lumber.

Q. And where?

A. In Greenville, California.

Q. Operate a sawmill at Greenville?

A. Yes.

Q. And what types of lumber and lumber products do you manufacture?

A. Recutting principally railway ties and studing.

Q. Is the Cheney California Lumber Company a subsidiary of some other corporation? [7]

A. It is not.

Q. Is it related in stock ownership with the Cheney Lumber Company, Inc., of Tacoma, Washington? A. No, it is not.

Q. It is not? A. No.

Q. Are any of the records of the Respondent, Cheney California Lumber Company, kept in Greenville? Sales records?

A. Sales records are all kept in Tacoma, Washington.

Q. And that is where the principal office of the Cheney Lumber Company, Inc., a Washington corporation, is located? A. That is right.

Q. Do you know, Mr. Cheney, approximately the dollar value of the sales of Cheney California Lumber Company during the period ending June 30, 1943? A. Approximately \$285,000.

Q. And board feet, approximately how much would that be?

(Testimony of B. B. Cheney.)

A. Approximately 17,000,000 board feet.

Q. Of that amount approximately what part was sold and transporated outside of the state? That is, from the Greenville mill?

A. Approximately less than 8 per cent of the total.

Q. And in dollar value what would that be?

A. Well it would be 8 per cent of two hundred eighty-five, whatever that is. [8]

Q. Well, could you tell me in dollars, would it be twenty or thirty thousand dollars?

A. Well, multiply 8 per cent.

Mr. Francis Cheney: \$22,800.

Trial Examiner Ward: You may state that.

The Witness: Approximately \$22,000 in round figures.

Q. (By Mr. Jennings) And approximately how many board feet is that?

A. Well, 8 per cent of 17,000,000, whatever that is.

Q. The proportion is the same?

A. Yes, the same.

Q. Now—

A. Our board measure probably would be less, our 285,000 was the total sales and of that total sales there were 8 per cent that were sold out of the state. I wouldn't—maybe that wouldn't be the same proportion at that because the dollar and board measure may not run exactly proportionately. There might be a little variation but I took our percentage.

(Testimony of B. B. Cheney.)

Trial Examiner Ward: It would be approximately that?

The Witness: Yes.

Q. (By Mr. Jennings) Now, those figures are for the year beginning June 1942 and ending June 30th, 1943? A. That is right. [9]

Q. During the year 1942 and going up to June 30th of '43 did you sell any railroad ties to any railroads?

A. Well, we sold to the Western Pacific and Southern Pacific railroads.

Q. Do you know approximately how many railroad ties you sold to the Western Pacific railroad during the year 1942?

A. No, I don't remember the pieces.

Q. Would you say that approximately 30,000 railroad ties would be correct? That is the figure the Western Pacific gave me.

A. Well, it might be around there. I don't remember the exact figure. We were hurried for time and so much work up there that I had our book-keeper working for the California corporation in Tacoma look up these figures and he gave me the total sales of two hundred eighty-five, that figure—went through the invoices and figured it out—the out-of-state shipments which he worked as a percentage came to 7.6 I think of the total sales. [10]

Q. (By Mr. Jennings) Along the line indicated by Mr. Francis Cheney, Mr. Cheney, would it be fair to say that the preponderance of your sales

(Testimony of B. B. Cheney.)

during the period of 1942 and the first six months of 1943 have been railroad ties to the Western Pacific railroad and the Southern Pacific Company?

A. That is right. I would say that is correct.

Q. The Western Pacific Railroad Company operates a railroad from Oakland, California to Salt Lake City, Utah; is that correct, Mr. Cheney?

A. Well, I don't know exactly where the line goes. I know they operate here in the State of California.

Q. Well, you know also that the main line runs up to Salt Lake City, Utah, don't you? [11]

A. Well, I didn't know that; no, I didn't.

Q. You didn't know that? A. No.

Mr. Jennings: Would you be willing to stipulate to that, Mr. Cheney?

Mr. Francis Cheney: Well, I don't think that that adds to it or is even necessary. I think that the court will take judicial recognition of the line of the railroad.

Trial Examiner Ward: The trial examiner will take judicial notice of the fact that the Western Pacific Railroad and any railroad that connects with it, transcontinental railroad, is engaged in interstate commerce.

Q. (By Mr. Jennings) The railroad ties that you sell to the Western and Southern Pacific railroads are used in their railroad beds, aren't they?

A. They must be. I don't know where else they would use them.

(Testimony of B. B. Cheney.)

Q. They operate trains in interstate commerce over those railroad beds, isn't that correct?

A. I suppose they do.

Q. That is the purpose of the railroad bed, isn't it, to operate the trains over them?

A. Well, I would think that was quite obvious.

Q. You know that the ties that are sold to the Southern Pacific Company are also used in their railroad beds, isn't [12] that true?

A. Well, unless they use them for building cars or something.

Q. Well, you sell them for railroad ties, and that is the purpose for which they are used?

A. I think so.

Q. And you know that the Southern Pacific also operates a railroad which runs from Oakland, California, up to Portland, Oregon, and likewise from Oakland to Chicago, and the southern route—

Mr. Francis Cheney: I object, Your Honor, for the reason that he is not best able to testify to that fact and I think that for the purpose of the record we will admit that the Southern Pacific is engaged in interstate commerce and the Western Pacific is engaged in interstate commerce and that these are railroad ties and as far as we know they are used for the purpose for which they are purchased. However, we do not know just where those ties are put and whether they are put in the state of California or whether they are put in roadbeds outside the state of California and we will stipulate as to that.

(Testimony of B. B. Cheney.)

Trial Examiner Ward: That statement clears it up. I will sustain the objection. [13]

BOYD WYATT,

a witness called by and on behalf of the National Labor Relations Board: [15]

Trial Examiner Ward: Your name is what?

The Witness: Wyatt.

Direct Examination

Q. (By Mr. Jennings) What is your full name, please? A. Boyd James Wyatt.

Q. Wyatt, W-y-a-t-t? A. Yes, sir.

Q. Where are you employed at the present time?

A. Setzer Box Company, Greenville.

Q. Are you the Boyd Wyatt who signed the charge in this proceeding? A. Yes, sir.

Q. Do you hold any office in the charging Local?

A. Yes, sir. I'm its secretary.

Q. And how long have you occupied that office?

A. This is the second term.

Q. How long is that? A. Two years.

Q. At the time you filed the charge did you hold any other office in the Lumber and Sawmill Workers' Union? [17]

A. I was International Representative of the Brotherhood of Carpenters and Joiners of America.

Q. And how long had you held the position of International Representative?

(Testimony of Boyd Wyatt.)

A. Approximately two months.

Q. And during what months was that?

A. April, May and the first part of June.

Q. Of 1943? A. Yes, sir.

Q. And prior to that time, that is, during the early part of '43 did you hold any other position in the United Brotherhood of Carpenters and Joiners? A. No, sir.

Q. Were you employed in organizational efforts during that time? A. Yes, sir.

Q. That is during the early part of '43 before you became—before you were put on the payroll?

A. I was working for the Northern California District Council prior to April of '43.

Q. And how long had you been employed by the Northern California District Council?

A. Oh, approximately a month.

Q. That is the District Council of the Carpenters and Joiners, isn't that true? [18]

A. Of the Lumber and Sawmill Workers.

Q. During the period of time that you were employed by the District Council did you make any effort to organize the employees of the Cheney Lumber Company? A. Yes.

Mr. Jennings: I will refer to the Company as Cheney in the record. I think that would be simpler.

Trial Examiner Ward: You may.

Q. (By Mr. Jennings) Now, when did you start to speak to the employees out at Cheney's concerning the joining the Union?

(Testimony of Boyd Wyatt.)

A. Well, I really got busy on approximately March 24th, 23rd, 24th and 25th.

Q. Of 1943? A. Yes, sir.

Q. And did you succeed in signing up a number of the employees? A. Yes.

Q. Any particular date when you signed up the greater number of them? A. March the 24th.

Q. And will you tell me what you did on that day?

A. On March the 24th the majority of the men at the mill were congregated over in front of the post office and the drug store. They were quite irate at not being employed full [19] time when some of the men were working six and seven days a week, very good opportunity for me to sign up what men there was there. I succeeded in signing up approximately sixteen or seventeen in the course of thirty minutes.

Q. They signed applications for membership in the Lumber and Sawmill Workers Union?

A. Yes, sir.

Q. Do you remember whether or not Clayton Block signed an application at that time?

A. Yes, he did.

Q. Do you recall whether or not Ira Leown Ware signed an application at that time?

A. Yes, he did.

Q. Did either one of them, Ira Ware or Clayton Block, assist you in your efforts to sign up the other men? A. Ira Ware did.

(Testimony of Boyd Wyatt.)

Q. Do you recall that thereafter—strike that. Were Ira Ware and Clayton Block working at the time they signed applications, so far as you knew?

A. As far as I knew they were working.

Q. Did you hear some time thereafter that they had been fired? A. Yes.

Q. Now, do you recall having gone down to the mill and spoken with Mr. Pease concerning recognition of the Union? [20] Answer yes or no.

A. Concerning recognition of the Union?

Q. Yes. A. Yes, I did.

Q. Now, what position did Mr. Pease occupy at that time at the mill?

A. I believe he was general manager.

Q. Was he in charge of the operations at Greenville? A. Yes.

Mr. Jennings: I might state for the purposes of the record and the Trial Examiner, that Mr. Pease is sometimes referred to and will be sometimes referred to as Lionel and sometimes as Mr. Pease. It's the same man. Sometimes the men in speaking of him call him Lionel.

Q. (By Mr. Jennings) Now, on what date was it that you went down to speak to Mr. Lionel Pease at the mill? A. March 25th.

Q. The day after the men had signed up?

A. Yes.

Q. And did you see Mr. Pease at that time?

A. Yes.

Q. Where did you see him?

(Testimony of Boyd Wyatt.)

A. In front of the office, right on the edge of the pond.

Q. And were you by yourself?

A. No, sir. [21]

Q. Who else was there at the time you spoke to Mr. Pease?

A. Man by the name of Charlie Block, Ruell Smith.

Q. Are—Ruel I believe that is spelled.

A. Lindsay Glenn, Leslie Allan; that is all that I remember of being there, although there were more there.

Q. Did you speak to Mr. Pease then at that time? A. Yes.

Q. What did you say to Mr. Pease and what did he reply?

A. I told Mr. Pease we had a majority of his crew signed up in the Union and would he give us an agreement and he said no, that that wasn't the proper way to do it, that he would rather have an election; and that we had such a majority up there that I tried to talk him out of that and then he got hot-headed and said he would shut the God-damned thing down—excuse my English—before he would let it go Union. I told him that was a very poor attitude. He proceeded to tell me that him and his father didn't get along very well because his father was a union man and he wasn't. I proceeded to ask him what he had against the union. He said the union tried to run his business. Well, I told him

(Testimony of Boyd Wyatt.)

that was a falsehood. We didn't try to run his business. If we could run it better than he could we would have our own sawmill. That is about the course of the general conversation as I remember it. It's been considerable time ago. There was quite a lot more but I can't [22] remember accurately enough to tell it here.

Q. Did any of those men, the employees of the mill, join in the argument?

A. Yes, they did. Charlie Block's father joined in to some extent. He is the only one that actually did any talking. The rest would either echo a yes or no of either Mr. Pease or myself.

Q. How long after you spoke to Mr. Pease did you learn of the discharge of Ira Ware and Clayton Block?

A. Two or three days later.

Q. Did you speak to Mr. Pease about it?

A. Yes. I saw him up town.

Q. Did you ask him to put them back to work? Or anything of that sort?

A. No. I asked him why he discharged them. He said—do you wish for me—

Q. Yes. Give us the full conversation—by the way, who were present when you had this conversation with Mr. Pease?

A. Only Mr. Pease and myself.

Q. Go ahead.

A. He said he discharged Ira Ware for failure to do his work; that other men were complaining that he couldn't do his work. He discharged Clayton

(Testimony of Boyd Wyatt.)

Block because he was absent [23] from work so much—if I take my time here, Mr. Examiner—

Trial Examiner Ward: Take your time.

A. (Continuing) It's been two or three months since this conversation took place. I told him it looks like that with the manpower situation the way it is today that if you would can anyone now they must have deserved to be canned. Then he proceeded to tell me that he wanted to can Ira Ware before the union came into existence, if it did, out at the plant, and then I proceeded to tell him that—

Q. Did he tell you why he thought it was necessary to fire Ware before the union came in?

A. Only that he didn't do his work.

Q. Did he tell you why he thought it necessary to fire Ware before the union came in?

Mr. Francis Cheney: I object. I think he answered that question.

Trial Examiner Ward: Just give the conversation; what he said, as near as you remember it.

Mr. Jennings: You go ahead and tell us exactly what he said.

Trial Examiner Ward: Tell us what happened.

The Witness: I have told you almost the entire conversation now.

Mr. Jennings: I am referring to the latter part of the conversation. Take it up where I interrupted you and [24] go ahead.

Trial Examiner Ward: With reference to his idea of firing Ware before the Union came in. What was said about that?

(Testimony of Boyd Wyatt.)

The Witness: Well, he claimed that one particular man, namely the sawyer on the rig that Mr. Ware was working, was claiming that—was complaining so much about Mr. Ware's work that he wanted to discharge him before the Union came in due to the fact that he was afraid he couldn't after the Union came in. I asked him why he hired Mr. Ware back. He had only hired him a short while ago and Mr. Ware had worked for him two or three times. And he brushed the question aside and we talked of something else of minor consequence. I believe that that is the gist of the conversation as I remember it.

Q. Now, did you continue your efforts to organize the employees at the mill during this time?

A. Yes, I did.

Q. And during the month of April did you file any formal proceeding before the National Labor Relations Board in San Francisco? A. Yes.

Q. That was sufficient for certification under Section 9-T of the Act, is that correct?

A. Yes. [25]

Q. And you recall that there was some mix-up about filing the petition? A. Yes.

Q. What was the difficulty?

A. The first petition was at fault. It hadn't been signed properly. The officers of the Union had typed in their names instead of writing it in in ink and the Notary had forgotten to put his name on the seal.

(Testimony of Boyd Wyatt.)

Q. But ultimately you did get a petition on file?

A. Yes, we did file another one.

Q. And you recall then that Miss McElroy, a field examiner for the National Labor Relations Board, came up to Greenville? A. Yes.

Q. And you recall a conference which was held at the mill? A. Yes.

Q. With Mr. Pease? A. Yes.

Q. And who was present there besides Miss McElroy and Mr. Pease?

A. That is all that was present.

Q. You were there?

A. I was there, yes.

Q. The three of you? A. Yes. [26]

Q. And do you recall the date of that conference?

A. It was on Wednesday, May 19th or 20th.

Q. Well, was that this year? A. Yes.

Q. Wednesday would be the 19th of May, 1943.

Trial Examiner Ward: Off the record.

(Remarks off the record.)

Trial Examiner Ward: On the record.

Q. (By Mr. Jennings) Now, on Wednesday, the 19th of May, at this conference that you had with Mr. Pease, was there some discussion with regard to a consent election?

A. Yes, there was.

Q. Prior to that time had you been trying to resolve this matter in some fashion other than by a consent election?

(Testimony of Boyd Wyatt.)

A. Yes. I had tried to make it a consent cross-check.

Q. That was not acceptable? A. No.

Q. So then on the 19th of May you talked about a consent election? A. Yes.

Q. And was an agreement signed on that day for a consent election? A. Yes.

Q. And on what date was the election to be held?

A. May 22nd. [27]

Q. Did you at that time, while you were talking with Miss McElroy and Mr. Pease, designate an observer who was to act for the Union in the election? A. Yes.

Q. Who was the observer designated by you at that time? A. Ira Ware.

Q. What is that?

A. No; not Ira Ware, Lindsay Glenn. Excuse me.

Q. Now, do you require that notices of the election were posted on the Company's property at the mill?

A. Yes, they were the following day.

Q. That would be the 20th of May that notices were put up? A. Yes.

Q. Now, were Lindsay Glenn and Leslie Allan working on May the 20th? A. Yes.

Q. That was the day the notices were up?

A. Yes.

Q. Did they continue to work until the date of the election? A. What is that?

(Testimony of Boyd Wyatt.)

Q. Did they continue to work until the date of the election? A. No, sir; they didn't.

Q. And were they fired? A. Yes. [28]

Q. On what date? A. On the 21st.

Q. Did you, when you learned that they had been fired, did you do anything?

A. Yes. First I called Miss McElroy, the field examiner for the National Labor Relations Board in Susanville and informed her. She said she would be over the next morning, as early as she could get here.

Q. Did you go out to the Company's mill on the morning of the 22nd? A. Yes, I did.

Q. And did you speak to Mr. Pease at that time?

A. You said on the morning of the 22nd?

Q. That is the morning of the election; the morning before the election.

A. Yes, I did; yes.

Q. Were either Mr. Glenn or Mr. Allan with you at that time?

A. They were with me but they stayed outside.

Q. And was Miss McElroy there also?

A. Yes.

Q. Did you and Mr. Pease and Miss McElroy discuss the discharges of Glenn and Allan?

A. Yes, sir.

Q. And did you also discuss the question of whether or not they could vote in the election? [29]

A. Yes; we did.

Q. And what was the position that Mr. Pease took?

(Testimony of Boyd Wyatt.)

A. The position he took was that they could not vote in the election.

Q. For what reason?

A. That they no longer were employees of the Cheney Lumber Company.

Q. Did you decide to go ahead with the election on the 22nd? A. Yes.

Q. That election was held during the noon hour, is that right? A. Yes.

Q. And were you present when the ballots were tabulated? A. Yes.

Q. What were the results?

A. 16 to 16. There was two challenged votes; challenged by the Company.

Q. 16 for the Union? A. Yes.

Q. And 16 against the Union? A. Yes.

Q. And the votes of Lindsay Glenn and Leslie Allan were not counted because they were challenged? A. That is right. [30]

Q. And did you have any disscussion with any representative of the Company following the counting of ballots?

A. Yes. I talked to Mr. Cheney.

Q. Did you talk to Mr. Pease also?

A. No. I don't believe I did.

Q. Is that Mr. Ben Cheney? A. Yes.

Q. Who were present when you had this conversation? A. Only him and I.

Q. What did he say and what did you say?

A. I don't just remember how the conversation started. He told me that we had lost the election

(Testimony of Boyd Wyatt.)

and for me to get the hell out and so the boys could go back to work; and I told him we would have won the election if the two men hadn't been fired.

[31]

Q. (By Mr. Jennings) Did any of the employees of the Company other than Glenn and Allan come up to see you on the 21st, Mr. Wyatt?

A. Yes, sir; namely the four men that quit. They gave the reason that they quit was that the Company had discharged Allan and Glenn.

Q. They told you that? [32]

A. Yes, they did.

Q. Now, were any of those employees members of the Union? A. They all were.

Q. Did they vote in the election?

A. No, sir; one did, namely Leslie Allan's brother, went back to work that morning, the morning of the 21st.

Q. He quit and then he went back to work?

A. Yes. I saw Mr. Pease about that and the man said that he would like to continue on and work there, that he thought he was a little hot-headed, and so Mr. Pease let him go back to work.

Q. During the conversation with Mr. Pease—by the way, was this man's name Allan, did you say—I believe you said he was Allan's brother. What is his first name? A. Doyle.

Q. The name is Doyle Allan?

A. Yes; Doyle Allan.

Q. During the time that you were talking with the election? A. What is that?

(Testimony of Boyd Wyatt.)

Mr. Pease and Doyle Allan about his going back to work did he indicate to Mr. Pease why he had left?

A. Yes.

Q. What did he say?

A. He said he thought his brother had got a raw deal and that he thought he'd have been a heel if he hadn't have walked out in sympathy with his brother. [33]

Q. Do you recall that on the 19th of May, when the agreement was made for the consent election, that there was some discussion about the date of the election?

A. Yes. There was a great deal.

Q. Now was a date other than the 22nd of May originally fixed? A. Yes.

Q. What date was first agreed upon?

A. I couldn't tell you exactly. It was—

Q. Approximately how long after the 22nd; was it a week or 10 days or two weeks? How long?

A. It was either a week or two weeks.

Q. And did any of the men make any objections to the election being held at that later date?

A. Yes, they did.

Q. Did you recall anyone specifically that took the lead in that regard? A. Leslie Allan.

Q. Did you see him or hear him make any statements with regard to the date of the election?

A. Yes. He said if the election was going to be that far off that he didn't see how he could stay, and the other men all felt the same way. [34]

Q. (By Mr. Jennings) State what the men told

(Testimony of Boyd Wyatt.)

you as to the reason why they felt they couldn't stay?

A. They felt that the Company was discriminating against the Union members, Union employees, and were favoring the non-Union employees.

Q. Now, what did Leslie Allan do in connection with getting the election set at an earlier date?

A. Miss McElroy got into her car to leave, the date had been decided on for the election, at this later date. Leslie Allan walked over to the car and what he said I don't know, as I wasn't there.

Q. Did he walk over there and talk to Miss McElroy? A. Yes; he did. [35]

Q. Where was her car parked in reference to the Company's office?

A. Right in front of the office.

Q. And did he talk to Miss McElroy for a while?

A. Yes, he did.

Q. And did she thereafter go back into the office?

A. By that time the rest of the men walked over to her car and she called me over and said if she could get Mr. Cheney's O.K. that even though it would be of great inconvenience to her she would try and have the election at noon on the next Saturday.

Q. That would be the 22nd? A. Yes.

Q. Yes.

A. And then she did go back into the office and it was all right with Mr. Cheney.

(Testimony of Boyd Wyatt.)

Q. So the election was then held on the 22nd instead of this later date?

A. That is right—I beg your pardon. I didn't mean Mr. Cheney. I meant Mr. Pease.

Q. Yes. Mr. Cheney was not there at that time, was he? A. That is right.

Q. Did Mr. Pease or Mr. Cheney sign the consent election agreement? A. Mr. Pease. [36]

Cross Examination

Q. When was your first contact with the men at the Cheney California Lumber Company?

A. I contacted the men individually probably four or five months prior to the time when I signed them up.

Q. And why did you contact them?

A. Because they had asked me on several occasions to organize the plant.

Q. These men asked you to organize the plant?

A. That is right.

Q. Did you sign any of those men up at that time? A. No, sir; I didn't.

Q. Did you make any attempt to organize the plant? A. Not until March 24th.

Q. What are your duties as the secretary of the Union, that is, in regard to organization?

A. As secretary of this local Union I have nothing to do with organization.

Q. Under what authority did you organize or attempt to organize the men?

(Testimony of Boyd Wyatt.)

A. On March 21st I had authority from the Northern California District Council.

Q. By reason of the fact that you were on the District Council?

A. The District Council had hired me to organize this plant and several others. [38]

Q. When you decided to go out and organize these men what were the first steps that you took? Did you call a meeting?

A. No, sir; I didn't immediately.

Q. You didn't immediately, you say?

A. No. I had a majority signed up on about the second day, the 25th of March.

Q. Now I am speaking of on the 24th. Now, you decided to organize this concern, and how did you go about it?

A. As I stated here before, it was a very lucky break. The men were all standing in front of the post office—oh, there must have been 18 men there at the time, and as I said before, they were just ripe to join the Union.

Q. Why were they just ripe?

A. Because they felt that they was being discriminated against. These men were already Union minded men and some of the men at the plant had, as I said before—were working six and seven days a week while these men were lucky [41] to get in three or four. They couldn't make a living and, of course, the freeze order wouldn't permit them to

(Testimony of Boyd Wyatt.)

get a release. They felt the Union could probably help them in dividing up their time some.

Trial Examiner Ward: That is what they told you at this time?

The Witness: Yes, sir.

Q. (By Mr. Francis Cheney) And you signed the men up then, a goodly portion of them you signed up in front of the post office, you say?

A. Yes.

Q. Was the mill running that day?

A. Beg pardon?

Q. Was the mill in operation that day?

A. No, it wasn't.

Q. So all these men were off, the mill was down and all the men were off and there happened to be a goodly number of them out here and you talked to them I understand? A. That is right.

Q. And you signed them up?

A. Yes.

Q. Were Block and Ware among that group of men that were standing out in front of the post office? A. Yes, sir.

Q. And you signed them up at that time too?

[42]

A. Yes.

Q. How many men did you sign up at that time?

A. I believe it was 16 there in the course of 30 minutes.

Q. After signing these men to the Union what was your next step in organization?

(Testimony of Boyd Wyatt.)

A. I went to see Mr. Pease about recognition of the Union.

Q. Did you tell Mr. Pease that you had a certain proportion of his workers signed?

A. Yes. I told him I had a majority.

Q. Was that a majority?

A. At the time I talked to Mr. Pease on the 25th and I had signed up three or four or five more and I did have a majority; 51 per cent constitutes a majority.

Q. Then what did you propose to Mr. Pease in the way of recognizing the Union?

A. I proposed that he give us an agreement.

Q. And did Mr. Pease refuse to give you an agreement? A. Yes.

Q. Did Mr. Pease—did you have any agreement to offer to him or any terms to offer to him?

A. Yes.

Q. Did you have a written agreement at that time?

A. No; not with me. However, the next day I did take him one down.

Q. As a matter of fact, then, Mr. Pease had no agreement [43] which he could either reject or accept?

A. He wouldn't even talk about an agreement.

Q. Well, what was your conversation then with Mr. Pease?

A. That conversation was repeated here a while ago.

(Testimony of Boyd Wyatt.)

Q. Would you mind repeating it again?

A. Mr. Pease was up—I met him on the bank of the pond directly in front of the office. There was a group of men there. I will name the ones that I know were there again; Ruel Smith, Charlie Block, Lindsay Glenn, Leslie Allan; Lester Ladd walked up after the conversation was about over. The rest of them—I don't recall who was there. I told Mr. Pease that I had a majority of his crew signed up in the Union and would he recognize the Union. He immediately said that he doubted I had a majority and, of course, it was impossible for me to show him the card as it would jeopardize the men's position at the plant, so I suggested that we call a National Labor Relations Board Examiner and have a cross check of the cards. He didn't answer to that at that time. One of the men spoke up and wanted to know what he had against the Union. I believe that was Mr. Block. Well, he said there was plenty he had against it and then at that time he said that him and his father didn't get along any too well because of the Union, because his father was a very strong Union member and had been all his life and that he, namely Lionel, was against the Union and then he said if it [44] does go Union, he says, I'm going to shut the God-damned thing down.

Q. Now, as a matter of fact, did not Mr. Lionel Pease, didn't he suggest an election? A. Yes.

Q. He suggested the election? He made the suggestion that they have an election, did he not?

(Testimony of Boyd Wyatt.)

A. He didn't make the suggestion that we have an election. He made the suggestion that we turn it over to the Labor Board so it could be carried out according to Hoyle.

Q. Well, then, of course, you agreed, naturally, that you have it carried out according to Hoyle?

A. Yes.

Q. You would want the proper proceedings to be taken, and Mr. Pease wanted the proper proceedings to be taken, did he not, to determine it?

A. Yes; although it wasn't necessary to do that.

Q. Well, that was your opinion?

A. Yes. We could have had a cross check.

Q. Mr. Pease told you that he wanted the thing carried out according to Hoyle and that he suggested that the Labor Relations Board handle it from there on?

A. Yes; because he doubted that I had a majority.

Q. That is all I want to know. And what were Mr. Ware's duties at the mill, the Cheney California plant? [45]

Q. (By Mr. Francis Cheney) You talked to Mr. Pease about the discharge of Mr. Ware, did you not? A. Yes.

Q. And Mr. Pease, according to your testimony, told you that he was discharged for failure to do his work? A. Yes.

Q. That the other men complained of Mr. Ware not doing his work? A. Yes.

(Testimony of Boyd Wyatt.)

Q. And that he discharged him to protect the other men, is that it?

A. There was one other man; it wasn't men. One man. [46]

Q. (By Mr. Cheney) Well, just what word did Mr. Pease use to convey to you the idea that Mr. Block was discharged for being absent from his work?

A. He just merely said that he was off work too much.

Q. Mr. Pease also made the statement to you that he was discharging Mr. Block and Mr. Ware at that time in addition to these reasons, for these reasons, and doing it now because later, when the Union came in he wouldn't be able to.

A. Yes. He did tell me that concerning Mr. Ware. He didn't say that about Mr. Block.

Q. But in other words, Mr. Pease conveyed to you that the Union was coming in and that he thought it was best to get rid of these men now for these reasons, if not, after the Union came in the Union might object to these men being discharged; is that the point that he was making? Is that [47] your understanding of it?

A. He never referred to the Union as coming in; it was always "if the Union did come in." He always stated, however—that was the general conveyance, that he couldn't discharge these men if the Union came into existence at the operation.

Q. You are pretty well familiar with all the sawmills in this area, I understand, and you are

(Testimony of Boyd Wyatt.)

employed at the Setzer Company now, as I understood you to testify? A. Yes.

Q. These sawmills are seasonal, are they not, in this area? A. Yes; the sawmills are.

Q. And during bad weather, why, they're not able to operate; is that right?

A. Well, it's according to how bad the weather is, of course.

Q. And certain sawmills in this area lost considerable time this winter and spring, did they not, because of bad weather conditions?

A. That I couldn't say—that all of them did.

Q. I say certain sawmills did?

A. Yes, they did.

Q. Did Setzer Box Company where you work, did they run full time right through the winter?

[48]

Q. Mr. Pease—I understand you questioned Mr. Pease about these two men, Glenn and Mr. Allan voting at the election? A. That is right.

Q. And Mr. Pease told you that he wouldn't recognize their vote because they were no longer employed by the Cheney California Company?

Q. No, as to the conversations about the election, about the date and the time of the election—I understand that the election was—that on the 19th it was decided that the election be on the 20th. Was that it, or 22nd? A. 22nd.

Q. And that the notices of election were posted on the 20th to be held on the 22nd?

(Testimony of Boyd Wyatt.)

A. The notices were posted either the night of the 19th or the very early morning of the 20th.

Q. And Mr. Pease had no objection to the election being held?

A. Apparently not. I didn't talk to him at that time, as I said before. Miss McElroy went into the office alone [50] and talked to him.

Q. But he had no objection, to your knowledge?

A. No, sir.

Q. As a matter of fact, he co-operated, did he not, with you in holding the election and having the men there and so forth?

A. Yes, apparently he did.

Q. You stated that four men stated to you—that four men left work after Glenn and Allan had been discharged; is that true? A. Yes.

Q. Who were these four men?

A. Doyle Allan, Clyde Quinliven—

Q. What is that second name?

A. Quinliven, Fay Smith—I can't recall the other one. He was just a young kid. I can't recall his name.

Mr. Jennings: Dees?

The Witness: That is the name.

Q. (By Mr. Cheney) Now, these four men, as you state, quit because Allan and Glenn had been discharged. Did you talk to these four men afterwards?

A. Yes, sir; all of them came to my house that morning.

(Testimony of Boyd Wyatt.)

Q. I see. Right directly from the plant?

A. Yes, sir.

Q. They were not discharged?

A. Two were discharged.

Q. I mean, these four men were not discharged?

A. No. [51]

Q. They quit themselves? A. Yes.

Q. Did any of those four men go back to work?

A. One, Doyle Allan.

Q. Doyle Allan went back to work?

A. Yes.

Q. Well, why did he go back to work?

A. He told me he was broke and he didn't have enough money to get out of town on.

Q. In other words, the rest of them got out of town, did they?

A. One of them did, Clyde Quinliven. Fay Smith is working at Setzer's at the present time if he hasn't gone to the Navy for which he had a call. The other guy—I don't know just where he is.

Q. Did those men go back to the plant and were they around the plant after they quit at the time they quit? A. Yes.

Q. They went down there later? A. Yes.

Q. Can you state whether or not they were offered their jobs back?

A. They were offered their jobs back under this condition—that they would have to stay there permanently.

Q. Well, as a matter of fact, that is the law, isn't it? A. Not necessarily.

(Testimony of Boyd Wyatt.)

Q. Well, at least labor is frozen on the job. Is that [52] what you mean by being there permanently?

A. Well, in other words, they couldn't come back today and quit next week. They would have to stay a considerable length of time.

Q. (By Mr. Cheney) I understand that Leslie Allan [53] objected to the election being postponed? A. That is right.

Q. And he was one of the men, was he not, that was discharged? A. That is right.

Q. And Mr. Pease, on Mr. Allan's objection, agreed then to let it be held on the 22nd?

A. It wasn't necessarily on Mr. Allan's objection. All of the men were objecting.

Q. Well, you said all the men, but the only name that you gave was Leslie Allan's name.

A. Leslie Allan was the ringleader.

Q. He was the ringleader?

A. Yes, sir.

Q. I see. You made the statement that the Company was favoring non-union employees and disfavoring union employees. Just in what way were they favoring non-union employees?

A. They were working the non-union employees longer hours than they were the union employees. It's a well known fact; I think it will be established by your payroll.

Q. Well, employees you say you were working

(Testimony of Boyd Wyatt.)

longer hours. Do you know any of the employees that were working longer hours? Non-union employees?

A. I'm not familiar with their names. I never had anything to do with them.

Q. I see. You are not familiar with any of the names of those men?

A. No. However, I do know that. [54]

Q. Did you examine the payroll? A. No.

Q. You have no absolute knowledge, then?

A. No. I only have the men's testimony on that.

Q. Did those men tell you that they were working longer hours?

A. The men that wasn't working the long hours told me the other men were. I could give you a couple of names.

Trial Examiner Ward: Just wait for the question, Mr. Witness.

Mr. Francis Cheney: I think that that is all.

Redirect Examination

Q. (By Mr. Jennings) You say that the men who were not working the long hours are the ones that told you? A. Yes.

IRA LEOWN WARE,

a witness called by and on behalf of the National Labor Relations Board, testified as follows:

Direct Examination

Q. (By Mr. Jennings) What is your full name, please? A. Ira Leown Ware. [55]

Q. Where are you employed at the present time?

A. Setzer Box Company.

Q. How long have you been employed in the various operations in the lumber industry?

A. Throughout my life or just in the state?

Q. Throughout your life.

A. About between 20 and 22 years, approximately.

Q. Were you employed by Cheney during 1942?

A. Yes, sir.

Q. About when did you go to work for Cheney in 1942?

A. Some time along in June, latter part of June or the 1st of July.

Q. 1942? A. 1942.

Q. Now, what jobs did you hold during 1942 and how long did you work?

A. What jobs?

Q. Yes.

A. Well, I held various jobs wherever he saw it was fit to put me. I ran the donkey. I worked on the hoist, principally on the hoist. I put more time in there on the log hoist, putting logs up to the saws.

(Testimony of Ira Leown Ware.)

Q. Did you continue to work until the seasonal shutdown in the fall or winter? A. I did.

Q. Did you work doing any maintenance work during the period of the seasonal shutdown?

A. Some; not much. [56]

Q. Were you laid off during the winter months?

A. Yes.

Q. Did you get work elsewhere for a while?

A. I did.

Q. Where was that?

A. Hurlong, Minnesota, ammunition dump.

Q. And thereafter did you return to Greenville?

A. I did.

Q. Approximately when did you come back to Greenville?

A. I came back to Greenville from leaving there the last of February, 1st of March.

Q. 1943, is that right?

A. 1943, that is right.

Q. You got back to Greenville then, some time in the early part of March, 1943?

A. I got back here—I left there on the last day and drove home. Got home the last day of February, got home that evening of the 28th.

Q. And after you came back here did you state to Mr. Pease anything about going back to work?

A. Well, I had seen him before I had quit my job up there and was talking to him about it.

Q. Before you quit your job where?

A. At Hurlong.

(Testimony of Ira Leown Ware.)

Q. And while you were still working at Hurlong you returned to Greenville and talked to Mr. Pease?

A. I did.

Q. And what conversation did you have with Mr. Pease at [57] that time?

A. Well, I met him in the Cafe and I asked him about when he thought the mill would be starting again and he said in about a week, possibly 10 days, and I asked him if he thought it would be advisable for me to quit over there, if he'd have anything for me here. He said yes. He said, "I might not be able to put you on immediately, but within a few days."

Q. Did you quit your job then up at the ammunition dump?

A. I went back and finished up the month and quit for the purpose of going back to work at the mill.

Q. Did you go out to the mill then and go to work after you returned to Greenville?

A. I did within a few days afterwards. I don't just exactly remember how long it was, probably four or five days or a week, something like that.

Q. What job were you put on?

A. Back on the well, on the hoist on the well.

Q. You told me you had held that job before?

A. That is right.

Q. What do you do on the hoist job?

A. Well, the job is where the log is raised from the well which leads—the well is a sort of a kind

(Testimony of Ira Leown Ware.)

of a box description that there is a couple of chains comes down into that raises the logs out of the pond or out of this well and puts them up on the skidway to the saws, to the mill, and this hoist is driven by electric motor with a [58] friction clutch on it. You can run it either way that you desire to run it.

Q. Did you work at any other job after you went back to work in the early part of March, 1943?

A. No.

Q. How long did you continue to work—about how long did you work?

A. Well, from—it was about two or three weeks probably, a little less; approximately that.

Q. Was there any criticism of your work during the time you were employed during 1943?

A. No, sir.

Q. Mr. Pease or anyone else representing the Company talk to you about your work?

A. No, sir.

Q. Tell you that there was anything wrong with it? A. No, sir.

Q. Mr. Ware, were you a member of the Union at the time you were working at the Cheney Lumber Company? A. I was.

Q. How long had you been a member of the Union?

A. I had been a union member for quite a few years. I have been a union member in this state ever since I have been here.

Q. How long? A. The AFL.

(Testimony of Ira Leown Ware.)

Q. How long is that?

A. It will be or is about three and a half years.

[59]

Q. Did you wear any union insignia during the time you were employed at Cheney's?

A. I did.

Q. What did you wear?

A. I wore a union button.

Q. Where did you wear it? A. On my hat.

Q. Did you wear that consistently all of the time you were working? A. Yes, sir.

Q. Calling your attention to March the 24th of 1943, were you a member of the Union at that time?

A. I was.

Q. Did you at Mr. Wyatt's request sign another designation card for the Union?

A. That is right.

Q. Do you remember the occasion that Mr. Wyatt has testified about? A. Yes, sir.

Q. And you signed other designations at that time? A. I did.

Q. Did you have anything to do with the signing of the other employees at the time they were signing up in front of the post office?

A. I did, yes, sir.

Q. And what did you do?

A. Well, I worked in with the boys to help them to organize the Cheney Lumber Company and some of the boys were [60] a little scared they'd lose their jobs if they would sign up and I told them

(Testimony of Ira Leown Ware.)

that I didn't see hardly where they would be losing their jobs, because I didn't think that there would be any discrimination on a man signing anybody to join a union to help give labor a little right.

Q. Now, did you discuss the union among the employees out at the mill? A. Some, yes.

Q. What else did you do in connection with this effort to sign the employees up in the union?

A. Well, I didn't do much else, any more than to help them to get as many members as we could.

Q. By the way, who was the foreman out at the mill during 1943? A. Jake Williams.

Q. How long was he the foreman? Had he been the foreman in '42? A. Yes.

Q. How long did he continue as foreman in '43?

A. For the exact date I couldn't say. I don't know.

Q. Did someone else take Williams' place at some time during '43? A. Yes.

Q. Who was that? A. Herman Higday.

Q. Did you see either Mr. Williams or Mr. Higday standing around on the 24th of March, when the employees were signing up for the Union? [61]

A. I saw Mr. Williams.

Q. Did you have any conversation with Mr. Williams on that day or the following day, about the Union?

A. I didn't have any conversation with him that immediate day but I did the following day. I talked to him about it.

(Testimony of Ira Leown Ware.)

Q. What did Mr. Williams have to say?

A. Well, he asked me if those boys that signed those cards for the Union, if they had a right to back out if they wanted to, and I told him that I didn't think so.

Q. Did Williams say anything further?

A. Sir?

Q. Did he say anything more at that time?

A. Well, he said that if they went Union down there, why, he wasn't going to stay, that he didn't believe in the Union and sure wouldn't stay where there was a union.

Q. Now, you recall the signing up on the 24th of March, '43, in front of the post office, signing this new pledge card? A. Yes.

Q. I am calling your attention to the 24th of March when you signed the pledge card in front of the post office. A. Yes.

Q. Were you actually working at the mill at that time? Was the mill operating?

A. The mill that day—it wasn't operating but it was in operation. That particular day it wasn't operating but what the cause was I don't just recall, but I believe that it was because we were out of logs.

[62]

Q. Now, did you work the following day, that is, March the 25th?

A. I went back to work—no, I went back to work the 26th.

Q. What did you do on March the 25th?

(Testimony of Ira Leown Ware.)

A. I went to Reno.

Q. Did you talk to Mr. Pease, the superintendent, up there, before you went to Reno?

A. I did.

Q. What was the conversation you had with Mr. Pease?

A. Well, I asked him if it would be all right for me to have that day off, that my boy wanted to see about joining the Navy, and he said yes; he said, "That will be all right," and so I asked him then if I could have my check so I'd have some money to go with and to get back with and so they give me my check for what I had coming.

Q. Now, on what date was this that you had this conversation with Mr. Pease, if you recall?

A. I think that that was the—I'm not positive, but it was around the 21st or 22nd.

Q. Did the mill operate in the period following your conversation with Mr. Pease on the 25th of March? A. Did it operate afterwards?

Q. Yes. A. Yes.

Q. Were you working?

A. No, not after the 26th.

Q. No; here's what I mean, Mr. Ware. You had this conver- [63] sation with Mr. Pease you say on the 22nd or 21st? A. Yes.

Q. And you asked him to get off on the 25th, is that right? A. Yes; that is right.

Q. Now, did you work out at the mill after the

(Testimony of Ira Leown Ware.)

22nd when you talked to Mr. Pease? Did you do any work out there at all? A. No, I didn't.

Trial Examiner Ward: Between the 21st and the 25th you didn't work?

The Witness: No. I went back to work but I didn't work.

Q. (By Mr. Jennings) Now, what date did you come back to work, to go to work?

A. The 26th.

Q. The morning of the 26th? A. Yes.

Q. And did you go up to your job and start in to work on that morning? A. I did.

Q. What did you do?

A. Well, I went back to my usual job and I had hoisted three or four logs, oh, I guess probably we'd been at work 10 or 15 minutes and we needed a longer pipe pole to bring in some of the logs because they were quite a ways away and I asked the boy that worked on the pond there with me or on the well with me if he knew where it was and he said [64] it was laying over by the planer so I started over after it. On my way over there I met Lionel and then is when he told me that he wouldn't need me any more.

Q. Did he give you any reason?

A. I asked him what the reason was and he said because I didn't do my work. He says I let the other man on the pond do all my work and I told him, "No, Lionel," I says, "that is not the reason." I says, "The reason you're letting me go is because

(Testimony of Ira Leown Ware.)

you know I'm pretty heavily in these union activities."

He says, "No," he says, "you can leave it to the boys." He says, "You left all your work for them to do, wouldn't put the logs up."

Q. Was anything further said?

A. Well, I told him it was O.K. with me if that was the way he felt about it.

Q. Did he give you a discharge slip?

A. He did.

Q. Have you that slip? A. I have.

Mr. Jennings: I ask that this termination notice handed me by the witness be marked as Board's 2 for identification.

Trial Examiner Ward: It may be.

(Thereupon, the document above referred to was marked as Board's Exhibit No. 2 for identification.)

Q. (By Mr. Jennings) Mr. Ware, is Board's Exhibit 2 for identification the termination notice given you by Mr. Pease [65] the morning of March 26, 1943?

A. That is the termination notice; that is the one that the clerk gave me.

Q. Was Mr. Pease there?

A. He went in and told his brother (his brother was clerk) and he told him to give me this release as they call it.

Q. Not I noticed—strike that.

Mr. Jennings: I offer the termination notice in evidence as Board's Exhibit 2.

(Testimony of Ira Leown Ware.)

Mr. Cheney: No objection.

Trial Examiner Ward: It will be received.

(Thereupon the document above referred to was marked as Board's Exhibit No. 2 and received in evidence.)

BOARD'S EXHIBIT No. 2

Deliver this copy to the worker at the time his services are terminated

Use This Form Only for Reporting Terminations of Service Involving Possible Disqualification

Social Security account number of worker 470-03-
8469

Name of worker Ira L. Ware

Date of this notice 3/26/43

Last date individual worked 3/18/43

Date employer was informed of worker's termination of service if other than date entered in the preceding item 3/26/43

Employer's name and address must be typewritten or entered in ink

Cheney Calif. Lbr. Co.

Box 143

Greenville, Calif.

Do not ask worker to sign this form

Instructions for the worker appear on the reverse

(Testimony of Ira Leown Ware.)

Termination Notice Concerning
Possible Disqualification

Cause of Termination of Service

Check item 1, 2, 3 or 4, or state the cause of separation under item 5. Present full explanation under item 6:

- 1 Left voluntarily
- 2 Discharged for misconduct connected with his work
- 3 Worker not able to work
- 4 Worker not available for work
- 5 Other cause _____
- 6 Explanation _____

I Certify that the information given on this form is true and correct to the best of my knowledge and belief.

By KENNETH PEASE

Signature of individual completing
this notice

California Department of Employment
Affiliated with Social Security Board

Instructions to Worker for Use of Termination
Notice Concerning Possible Disqualification

As soon as possible, take this notice to the local employment office in the vicinity in which you live. If there is no United States Employment Service office in your town write the nearest office, asking

when and where you can consult a representative of the Department of Employment. It is important that you do this immediately, regardless of possible disqualification.

DO NOT DESTROY THIS NOTICE. Your employer is required to give it to you under the Regulations of the California Employment Commission.

If you file a claim for unemployment insurance or if you renew or continue a claim which was previously filed, **PRESENT THIS NOTICE** at the time of registration for work and filing a claim.

You will be ineligible for unemployment insurance if the California Department of Employment determines that:

1. You quit your job without good cause (2 weeks ineligibility), or
2. You were discharged for misconduct connected with your most recent work without good cause (1-6 weeks ineligibility), or
3. You wilfully made a false statement or representation or wilfully failed to report a material fact to obtain unemployment insurance (4 weeks ineligibility).

You can not collect unemployment insurance when you are sick and unable to work.

If, without good cause, you refuse suitable employment when offered to you, or fail to apply for suitable employment when notified by the United States Employment Service office, you will be ineligible for unemployment insurance.

Failure to present this notice when filing a claim

(Testimony of Ira Leown Ware.)

for unemployment insurance may result in a serious delay in the determination of your insurance rights.

WARNING: It is not necessary to employ anyone to help you collect benefits; someone in the local employment office will help you.

Q. (By Mr. Jennings) I notice, Mr. Ware, that the reason given on the termination notice, is "Discharged for misconduct connected with his work."

A. That is right.

Q. Did Mr. Pease tell you of any respect in which you had engaged in misconduct in your work?

A. He didn't.

Q. Did you question him with regard to the reason he so marked your termination notice?

A. I did not.

Q. You took it and left? A. I did.

Q. The notice states that the last day you worked was [66] 3/18/43, March 18, 1943.

A. That is right.

Q. Is that about right?

A. That is about right.

Q. Now, during the period from 3/18/43 to 3/26/43, that is, from the 18th to the 26th—

A. Yes, sir.

Q. —had you seen Mr. Pease?

A. Well, I saw him, yes, but I had no conversation with him.

(Testimony of Ira Leown Ware.)

Q. Had you been out at the mill during any of that time?

A. No—yes, I was too, because we were laid off a day or two for some reason, but I don't just remember what—something that turned up at the mill didn't run—but just to remember exactly why or what I don't remember.

Q. Do you remember that you went out and talked to Mr. Pease on March 21st or 22nd about getting off to go to Reno?

A. I did. I went out there and asked him about laying off, to get my check.

Q. And at the time you talked to Mr. Pease on the 21st or 22nd of March did he indicate to you that he thought you weren't doing your work?

A. No, sir.

Q. Did he discuss your work with you?

A. No, sir.

Q. Did he tell you that you were to be fired?

A. No, sir. [67]

Q. Did he say anything about your work at all to you? A. No, sir.

Q. And did you make arrangements with him at that time to come back to work?

A. I did not.

Q. Did you ask him for one day off or did you ask him to be off indefinitely?

A. I asked him for the day off to go to Reno.

Q. And what did he say?

A. He said it was perfectly all right. And also

(Testimony of Ira Leown Ware.)

I asked him for my check and he said that was perfectly all right.

Q. Was there any discussion at that time about whether you were to be through, finished with your work at the Company? A. None at all.

Q. No discussion of your work at all?

A. No, sir.

Mr. Jennings: That is all.

Trial Examiner Ward: You may cross-examine.

Cross Examination

Q. (By Mr. Cheney) You made the statement that you did some maintenance work at the Cheney Lumber Company during the winter?

A. Yes.

Q. Did you do this maintenance work when the mill was [68] not running? A. Yes.

Q. So there were days that you didn't work at the plant even though the plant was in operation?

A. That is right.

Q. You made the statement that Mr. Pease offered you your job back at the mill when it would start up again, start operations?

A. That is right.

Q. And you came back to work?

A. That is right.

Q. I understand that you wore a union button at the plant all the time that you were working there or most of the time that you were working there? A. I did.

Q. Even prior to the time that the men signed

(Testimony of Ira Leown Ware.)

up for the Union, the other men signed up for the Union? A. That is right.

Q. Did anybody ever tell you not to wear that button? A. No.

Q. You were never molested?

A. No, sir.

Q. You made the statement that you helped sign up the men? A. I did.

Q. In the Union? A. I did.

Q. And also that you told the men that you believed [69] that the mill—the Cheney Lumber Company—would not discriminate against a Union man.

A. I did.

Q. You had reason, of course, by experience, to know that we wouldn't discriminate against a Union man.

A. I had reason to believe that—

Q. Yes or no. A. Yes.

Q. Now, you stated that after that time you talked to Mr. Jake Williams or he talked to you, whichever way it was? A. Yes.

Q. About signing up with the Union?

A. Yes, sir.

Q. I understand that Mr. Williams asked you—mentioned the cards—if they would have a right to back out, were the words I believe you used?

A. That's right.

Q. Who was your boss at that time, your mill boss at the time you were signing these men up in the Union?

(Testimony of Ira Leown Ware.)

A. I think Herman Higday was the foreman at that time.

Q. What was Jake Williams doing at that time?

A. I think he was sawing at that time.

Q. I believe that is correct. And Mr. Williams made the statement to you at that time that he would quit if he had to sign—before he would sign up with the Union? A. That is right.

Q. He was a sawyer there, sawing in the mill?

A. Yes. [70]

Q. If the Mill was not operating—if the mill I understand was not operating—I can't quite get this straight—if the mill I understand was not operating between the 18th and 25th of March when you were laid off and you were talking about going to Reno—?

A. Well, as I said, I didn't just remember why or what was the reason. It seems to me as if it wasn't in operation or maybe had run a half a day or something. It seems, if I can recall right, it seems as if we had trouble with the burner conveyor and I think they were down for that reason, but I wouldn't say for positiveness.

Q. That is the conveyor that runs under the mill and up? A. That is right.

Q. That was down? A. That is right.

Q. Well, now, but you thought that you were under the impression that they were going to work on the 25th and that is why you asked permission to have that day off? A. That is right.

(Testimony of Ira Leown Ware.)

Q. You asked for your time up to that date in full? A. That is right.

Q. And you got your time and he very gladly gave it to you? A. That is right.

Q. Had you ever had any conversations with Mr. Pease or Mr. Higday or any of the other fellows there or particularly those two regarding joining the union? A. No, sir. [71]

Q. And as a matter of fact, your first conversation with Mr. Pease after asking him if he would let you have the day off and your time in full was when you left the well and were going for a pipe pole? A. That is right.

Q. And he met you, I understand?

A. That is right.

Q. And he told you that you were discharged?

A. That is right.

Q. And you asked him why you were discharged?

A. That is right.

Q. And he told you that you were discharged for incompetency? A. That is right.

Q. I believe you said something along about him making the remark that he would leave it up to the men that there was somebody objecting to your work?

A. I told him that that wasn't the reason that he was letting me go. The reason he was letting me go was on account of Union activities and he said no, it wasn't. He said that I didn't do my work and he says I could leave it up to the men. He says,

(Testimony of Ira Leown Ware.)

"to the men that work with you"; he says, that is the way he said it.

And I says, "No, Lionel, that isn't right," I says

And he said, "Yes, it is."

And I says, "O.K."

Q. After being discharged from the Cheney Lumber Company what did you do ? Did you go to work immediately and find [72] a job?

A. I went to work about a month after that.

Q. A lot of jobs around here weren't there, at that time?

A. Well, there were a lot of jobs around, yes not right in the immediate vicinity but otherwise in different places.

Q. So that a man with your experience in the lumbering business wouldn't have any trouble getting a job?

A. No; I didn't feel as if I'd have any trouble getting a job if I wanted to leave home and go other places but I didn't think I just wanted to pull out of Greenville and leave.

Q. Did you go to the other mills and ask for work? A. I did.

Q. Did you go to Morse & Langberg?

A. Yes.

Q. Had you ever worked for them?

A. I did not.

Q. They refused you work, did they?

A. No, they didn't refuse me work. They weren't

(Testimony of Ira LeOwn Ware.)

ready to operate at that time. They were building their mill and weren't quite ready for it.

Q. Did you go over to the cedar mill?

A. I did not.

Q. Had you ever worked there?

A. I had not.

Q. Did you go to Frizzie's? A. No. [73]

Trial Examiner Ward: May I ask the purpose of this line of questioning?

Mr. Francis Cheney: Yes, because under the penalties and so forth involved in here, your Honor, because of back pay and so forth.

Trial Examiner Ward: I will state for the purpose of the record where the issue is raised the Examiner states that for the purpose of the case, insofar as reinstatement of employees is concerned, the fact that substantially equivalent employment has been obtained will be assumed for the purpose of this case. We are assuming that he has received substantially equivalent employment and we don't care for any evidence on that point. [74]

Redirect Examination

Q. (By Mr. Jennings) Who was the sawyer working above the hoist at the time you were discharged, Mr. Ware? [75]

A. Let's see—Clyde—I can't think of his last name—Clyde Johnson was on the big rig and Williams was on the small rig.

Q. Jake Williams?

(Testimony of Ira Leown Ware.)

A. Jake Williams. Not the small rig either, but we called it the middle mill.

Q. Did Pease say anything to you at any time that you were talking too much around the mill; did he ever criticize you for that?

A. Never did, no.

Q. I am not sure that I understood you correctly, Mr. Ware. I think that you answered Mr. Cheney stating that you had reason to think that the Company wouldn't discriminate against you for Union membership. Did I understand you correctly?

A. That is right.

Q. And what reason did you think you had?

A. Well, because I figured that they were people with gentlemen's principles enough to play fair and square on the side of labor. [76]

ALVIN WAITTS

a witness called by and on behalf of the National Labor Relations Board.

Direct Examination

Q. (By Mr. Jennings) What is your full name, please? A. Alvin Waitts.

Q. Where are you employed at the present time?

A. Cheney Lumber Company, or Cheney California Lumber Company.

Q. Cheney California Lumber Company?

A. Yes.

(Testimony of Alvin Waitts.)

Q. And what is your job out there?

A. Run an edger.

Q. Run an edger? A. Yes.

Q. How long have you held that job?

A. Ever since the mill started last summer, last year in March, I guess. [78]

Q. Have you been running that edger steadily since the mill started in March of 1942?

A. All except the first week. I tailed the edger the first week, that is, I worked on the strip catcher.

Q. Will you describe for me the nature of your job, what you do, what the edger is and how it operates; and what the purpose of it is.

A. The lumber comes down to me, it's in lumber form and the edger has saws in it and it makes—

Q. The lumber is in slabs you mean?

A. Yes.

Q. And how long are the slabs?

A. Eight feet long.

Q. Yes.

A. And when I run them through the edger why this makes two by fours and edging and side that is no good.

Q. That is, it cuts off two by fours in the middle of the slab? A. Yes.

Q. And then there are strips on the side?

A. The bark on the side has to be thrown away.

Q. Well, are all of the strips that run through there good except the two on the outside or are there some of those bad too?

(Testimony of Alvin Waitts.)

A. There is some that is bad, that is, there is rotten and [79] broken pieces and they have to be thrown away. If it's a whole slab it all has to go, you know.

Q. How are these slabs or strips carried through the edger?

A. By rolls. When you stick her in there she goes right through.

Q. Now, where do they go through to?

A. To the back of the edger to the strip catcher.

Q. The strip catcher works on the other side from you? A. On the back end of it.

Q. And in which direction do the strips go after they get to the strip catcher?

A. The strip goes one way and the lumber goes the other.

Q. What happens to the strips?

A. They go into the hog conveyor.

Q. Are there rollers which carry the good strips away?

A. There is a chain that takes the lumber to the planer and—two chains rather, and there is one chain that takes it to the hog that is what is thrown away.

Q. Now, when the good strips you say go down to the planer—

A. Yes. The good two by fours.

Q. They are carried by a chain down to the planer? A. Yes.

Q. And are they carried in front of the place

(Testimony of Alvin Waikts.)

where the two strip catchers are working, past the strip catchers down to the planer? [80]

A. Well, the strip catcher is directly—they come right out to him and then they leave him going to the left from the way he is facing.

Q. That is the strip catcher is facing?

A. That is right.

Q. To your right and to the strip catcher's left?

A. The strip catcher is to my left.

Q. Now, I don't think I make myself clear. The chain carries the good strips to your right?

A. Yes, that is right.

Q. And that would be the strip catcher's left, because they are facing you?

A. Yes, that is right.

Q. Will you tell me then what is done with the bad strips or the outside strips, the ones that are no good?

A. They are thrown in the hog conveyor.

Q. By whom are they thrown in the hog conveyor? A. The strip catcher.

Q. Will you describe the hog conveyor for me?

A. Well, it's a concern that comes down to the end of the table and it's just a box outfit with a chain running in it.

Q. Sort of a long trough with a chain in it?

A. Yes, elevated.

Q. About how long is the trough?

A. Well, to the hog I'd say it's 40 feet, 30 or 40, some- [81] thing like that.

(Testimony of Alvin Waitts.)

Q. And it has a chain running in the bottom of it? A. Yes, elevated.

Q. And it runs at rather a steep angle?

A. Yes.

Q. Now what is the job of the strip catcher?

A. The job of the strip catcher is to catch the strip and the bad lumber and throw it into the hog conveyor.

Q. Now, are both the strip catchers working in the position so that they can throw the strip into the hog conveyor?

A. Well, there is only one strip catcher and one lumber spotter, but if they let one get by the lumber spotter picks it up and he tosses it in there, if he is accurate enough to hit it; if he don't it falls on his head.

Q. Which man is the strip catcher of the two?

A. The one next to the conveyor. The hog conveyor.

Q. And his job is to toss the strip up into the conveyor? A. Up into the hog conveyor.

Q. Now, you say that there is a man who works next to the strip catcher? A. Yes.

Q. And you call him a lumber spotter?

A. Yes. He is the spotter for the trim saws.

Q. What is his job?

A. To spot the lumber up against the straight edge. [82]

Q. That is to straighten it on the chain?

(Testimony of Alvin Waitts.)

A. Yes. For it to trim both ends as it goes through the saw.

Q. And also to pull out any bad lumber?

A. Yes. If any goes by, if he can why he will toss it back to the other fellow and then he'll get it and throw it in, if he don't take a notion to throw it in himself; sometimes they do that, you know. But it is his job to take that out and pitch it right back to him and then he picks it up and throws it into the conveyor.

Q. I see. Now, on any occasion has anything else been done with the strips except throw into that conveyor, hog conveyor?

A. Only when the hog conveyor happens to go down or the motor burn out or something or another, why, then they throw them into the big conveyor.

Q. Where is that?

A. Underneath the table, underneath the table where the lumber comes out to the strip catcher.

Q. That is, if I understand your statement correctly there is a chain which carries the good lumber down to the planer? A. Yes.

Q. And underneath that chain?

A. Underneath these two chains is a big conveyor that goes to the burner. [83]

Q. So that if the strips are not thrown up into the hog conveyor they are thrown down below?

A. If something goes wrong, why, they throw it down below until they get it fixed.

Q. Has there always been a hog conveyor there

(Testimony of Alvin Waitts.)

during the period of time that you have worked at the mill? A. No.

Q. What was done with the strips prior to the time that there was a hog conveyor?

A. Part of the time when we first began we threw them in the big conveyor then they decided to make wood out of their edgings and bad lumber and they put up two—we call them horses, I don't know what you would call them—there is two things for the truck to back under and they are put across crossways and they piled them until they got a truckload and the truck backed up and took them away.

Q. Do you recall when the hog conveyor was put in?

A. Some time this spring, I don't know when.

Q. Some time in the spring of 1943?

A. Yes.

Q. And do you try to keep an eye—or first, are you able to keep an eye on the strip catcher and the lumber spotter in the course of your work?

A. I have to keep an eye on them to keep from covering them up. If anything goes wrong with the planer and they stop [84] the chain, why, I've got to stop too.

Q. Has the speed with which you operate anything to do with the speed with which the strip catcher and lumber spotter have to operate?

A. Well, we all work together, I suppose. If you

(Testimony of Alvin Waitts.)

go too fast, why they have to work faster. If I go fast they have to work fast, naturally.

Q. If you go slower they go slower?

A. It's all governed by the lumber, the way the lumber comes.

Q. Then the strip catcher's job—strike that. If the strip catchers are not handling the lumber are you able to run it through as fast?

A. If they are not handling it they are supposed to handle it. They have got to handle it.

Q. If they don't handle it quick enough does that slow you down?

A. I've got to slow up. If the mill is covering me up I'm paid to run it through there, keep that chain clear.

Q. If it comes to you fast you have to shoot it through fast? A. That is right.

Q. Now during the period of time that you have been running the edger have there been a number of men working on this strip catcher?

A. Quite a few, yes. [85]

Q. And lumber spotter jobs? A. Yes.

Q. Do you recall Mr. Leslie Glenn—Lindsay Glenn and Leslie Allan having worked on that job?

A. Yes.

Q. Do you recall approximately what period of time they were working on it, some time in April and May of this year, isn't that right, 1943?

A. I believe so, some time in the spring; yes, this year.

(Testimony of Alvin Waitts.)

Q. Was the hog conveyor installed when they were first on that job, do you remember?

A. I believe it was installed while they were on the job.

Q. Now, have you had an opportunity to observe the work of the men who preceded them, Glenn and Allan and also those who followed Glenn and Allan in that job? A. Yes.

Q. How did Glenn and Allan compare in their handling of the job with the other men?

A. I believe they had done as well as any of them that have ever been there. We have had fellows there that were bad and we have had fellows that were good; then Glenn and Allan were good I thought. That is, I kept the thing going while they were there.

Q. Did they slow down you in your work or were they able to get the strips out of there? [86]

A. Glenn and Allan?

Q. Yes.

A. No, they didn't slow me down any.

Q. Is it possible to throw all of the strips up into the hog?

A. All the long ones, it is possible to throw them in, but the short ones that come out there, sometimes in spite of all you can do you can't keep them from it.

Q. During the period of time that Glenn and Allan were working there did you notice whether

(Testimony of Alvin Waitts.)

or not any of the strips were thrown into the refuse conveyor, that is, while the hog was installed?

A. I didn't see them deliberately throw them in, that is, long ones.

Q. Do you know that others went in, shorter strips?

A. I didn't see them. But that is, I wasn't noticing. But I know they had since then because I worked back there some myself. The short ones they just rake them in there, you know.

Q. That is, you worked— A. At times.

Q. At times behind—

A. Yes, just to change off with the boys.

Q. Then someone else was running the edger?

A. Yes. [87]

Q. Then during those times did you notice whether or not the strips fell into the refuse conveyor?

A. The short ones sometimes do. They just rake off in there.

Q. What about the men who are working on those jobs now; do they allow any of the strips to fall into the refuse conveyor as far as you know?

A. As far as I know yes. The short ones fall in because every now and then I've got to stop, one don't get all the way down. They have to get up on the table and get it out. I've got to stop for them to get that short one out.

Q. Now, during the period of time before the men, Glenn and Allan were discharged out there

(Testimony of Alvin Waitts.)

was there any trouble with the operation of the chain, the big chain?

A. While they were working there, you say?

Q. Yes.

A. Oh, yes. That chain would bust every now and then.

Q. What happens when it breaks?

A. The chain just parts. Part of it goes one way and part stops.

Q. And the mill has to stop?

A. Stop and repair it. That is right.

Q. Does that happen rather frequently?

A. Oh, yes; every once in a while with the old chain.

Q. Were you able to observe whether or not—strike that. [88]

Q. During the period of time that the mill was operating without the hog conveyor and the strips were being thrown on this large conveyor underneath, did you notice whether or not the chain broke frequently?

A. No, I don't know. I can't remember what they did with the edging before they put that hog conveyor in. I don't whether they put that on the horses this year or not. I couldn't say, but I believe they threw them in the conveyor for a while there until they got it fixed. I'm not sure about that.

Q. Can you state whether or not the throwing of the strips into the refuse conveyor; that is, I'm

(Testimony of Alvin Waitts.)

speaking now of the underneath conveyor, not the hog conveyor, would have caused the chain to break?

A. It would if it got under a bucket at the end where it jumped off into the other one. It would cause it to break.

Q. Do you know of any occasion when that occurred?

A. Well, no, really I don't. They said it did, one would get underneath the bucket and break it. I didn't help to fix that out there. I pulled the chain. I had a rope to pull the end back, you know.

Q. How long—strike that. Is the same chain still being used in the mill that was being used at the time Glenn and Allan were working on these jobs?

A. No. [89]

Q. A new chain was installed? A. Yes.

Q. Do you know when that was installed?

A. I don't know the date, no.

Q. Was it shortly after the men were discharged?

A. It was after they were discharged, yes.

Q. Well, how long afterwards, do you remember?

A. No, I don't remember.

Q. They were fired on May the 21st. Was it put in some time in June or July?

A. I believe it was in June. I'm pretty sure it was in June.

Q. Has there been any trouble—as much trouble with the chain breaking since the new chain has been installed? A. Oh, no.

(Testimony of Alvin Waitts.)

Q. Has there been any trouble at all?

A. I remember it being down twice. One time with a shaft out. And one time yesterday it was broken.

Q. During any period of time since the new chain has been installed has anything happened to the hog conveyor? A. Oh, yes.

Q. And when something happens to the hog conveyor what is done with the strips?

A. Thrown on the big conveyor and let it go out into the burner. [90].

Q. Is that both the long ones and the short ones?

A. Yes, everything.

Q. Did that throwing of the strip from the big conveyor cause the chain to break? A. No.

Q. Now, calling your attention to September and October of 1942 did you at that time belong to the Union? A. No, I didn't belong to the Union.

Q. Did you sign an application card?

A. Yes.

Q. And did you engage in any effort to induce the other employees to sign application cards?

A. Yes.

Q. Did you succeed in signing any of them up?

A. I got about 17 or 18, I think.

Q. When was that?

A. That was in September, I guess. About the 15th or 16th.

Q. Can you fix it with respect to deer season?

(Testimony of Alvin Waitts.)

A. It was deer season was on. They went hunting that day.

Q. Then it was around the 16th of September, 1942? A. Yes.

Q. After you had succeeded in signing a number of the men up did Mr. Pease have anything to say to the men about it?

A. He called us together in front of the office and told us [91] that he'd rather—

Q. Just a minute. We'll have to take it a little gradually. Approximately when was this that he called you together?

A. Oh, I'd say about four days after I tried to sign the boys up.

Q. And what time of day did he call you together? A. In the evening after work.

Q. And how many of the employees were there?

A. Practically everybody.

Q. And you were there? A. Yes.

Q. And what did Mr. Pease say to you at that time?

A. He told us he'd rather we wouldn't join no Union. That he'd rather just have a one big happy family down there and we'd work it out with us and himself and the Company.

Q. Do you remember what else he had to say?

A. He told us that he'd pay us the Union scale and if we did join the Union that there was some was overpaid the Union scale and they would automatically have to come down to the Union scale.

(Testimony of Alvin Waitts.)

Q. Did he thereafter pay the Union scale?

A. Yes. We have never changed.

Q. That is, did he make some change in the wages being paid the men at that time?

A. No, not at that time. [92]

Q. Do you recall speaking to Mr. Pease after he had called the employees together and spoken to them? A. Yes.

Q. That is you, individually? A. Yes.

Q. And when was that?

A. In the evening; they was running the planer in the evening.

Q. And was anybody there when you were talking to Mr. Pease?

A. No--there was a lot of boys working but they didn't hear the conversation.

Q. Will you tell us what you said to Mr. Pease and what he said to you at that time?

A. He came up watching me on one side, and I had some business with a fellow that was working on the chain. I talked to him a few minutes and I seen him watching me and I asked him "What have you got against the Union?" "Well," he said, "I'll tell you. I don't like them," and he said, "I don't want a damn thing to do with them."

Trial Examiner Ward: Who said that?

The Witness: Mr. Pease.

Trial Examiner Ward: Pardon the interruption. But you asked him, you mentioned the Union first.

The Witness: Yes.

(Testimony of Alvin Waitts.)

Q. (By Mr. Jennings) Did Mr. Pease have anything further to say or did you have anything further to say at that time? [93]

A. He told me—oh, he had a kind of a story that if they got into a strike somewhere else that we'd have to kick in, you know and help save them, and all of that; and oh, that is about all he said at that time.

Q. What happened to your effort to organize the employees then?

A. I didn't then. I didn't organize them, they scattered.

Q. Did you cease your efforts?

A. Yes, I really did because nobody would talk to me about the Union at all.

Cross Examination

Q. (By Mr. Cheney) Mr. Waitts, have you worked there at the mill a long time?

A. Ever since the mill started.

Q. You are one of the oldest employees?

A. Yes.

Q. You have seen the mill during several seasons of operations? A. Two, yes.

Q. Two seasons of operations which is about the life of the mill; the length of time that the mill is run? A. Yes.

Q. You have seen it at times when the logs were—you had [94] plenty of logs and things ran along smoothly, and times when they had trouble getting logs and had to shut down? A. Yes.

(Testimony of Alvin Waitts.)

Q. You had seen it grow from a little, you might say just a little sawmill to now a fairly good sized operation? A. Yes.

Q. You have seen lots of employees come and go, have you not? A. Yes.

Q. And your job there in the mill has been with the edger? A. Practically all the time.

Q. Almost from the time you started?

A. Except about the first week I tailed the edger.

Q. You were employed at the mill when the original chain was installed, or at least the chain that was recently taken out?

A. No, the chain was there when I began to work.

Q. It was there? A. Yes.

Q. Was it a fairly new chain at that time?

A. No, I think it was old.

Q. At that time and at the time that you worked behind the edger where did you put the strips?

A. At the beginning I put them in the conveyor.

Q. I see. And why did you stop putting them in the conveyor? [95]

A. They wanted to use them for wood and I put them on those racks where the trucks could back under and get them.

Q. Did the conveyor ever have any trouble?

A. When we first began we didn't have much trouble with the conveyor.

Q. The strips went right through?

A. Yes.

(Testimony of Alvin Waitts.)

Q. Did the conveyor ever stop at that time that you can recollect?

A. While I was behind the edger, you mean?

Q. Yes.

A. No, I don't remember it ever stopping.

Q. And at the time of the first summer?

A. Oh, yes; we had trouble with it off and on all last summer, but not as much as we did this summer.

Q. And this year when they started operation in the spring where were the strips first put that were taken from the edger?

A. I believe they were put in the conveyor at the beginning; I believe they were.

Q. From whom did the men get their orders as to where the strips should be put at different times, from whom did they take their orders?

A. Mr. Higday I believe was the foreman, mill foreman.

Q. He would tell them to put them in the edger and they put them in the edger, is that right? [96]

A. In the conveyor, you mean?

Q. I mean conveyor. Pardon me.

A. Yes, that is right.

Q. If he would tell them to put them on these horses why then they would put them on the horses?

A. Well, they taken the horses out this year some time.

Q. Then if he would tell them to put them in the

(Testimony of Alvin Waitts.)

hog conveyor then they would put them in the hog conveyor?

A. Why yes; part of the time when they had the old chain we piled them up at the side of the chain.

Q. Then what would you do with them?

A. Well, they put them in the hog after the hog started. That is after the hog started, I'm talking about.

Q. I see. But Mr. Higday would tell the men at different times where to put the strips?

A. That was his job.

Q. Why did they decide—why did they put them into the hog rather than into the conveyor as they had been previously?

A. Well, they burn better in the burner they claim.

Q. While they were operating this spring I believe you did make mention that the conveyor did stop a number of times?

A. In the spring, yes; up until they changed.

Q. And you stated that the chain broke?

A. Yes.

Q. Did you ever help them repair the chain?

[97]

A. Yes, I pulled back with the rope all of it every time it taken the whole crew to put the rope on and put it back through there, you see.

Q. And where would the chain generally break?

A. At different places. Sometimes it would break at the back end and pass all the way past

(Testimony of Alvin Waitts.)

under the edges, no chain there, it would go on out.

Q. And I believe that oftentimes it would break with strips under the forward end of the conveyor?

A. Yes. If one got under there why it would because it would cause it to break.

Q. Did that happen, too, at times?

A. They said it did. I don't know because when it did the chain went away.

Q. You weren't out there when it broke?

A. No, sir.

Q. You were feeding the edger?

A. At that time I was.

Q. You had no opportunity to go out there to see how it broke? A. No.

Q. They told you how it did and you're taking their word for it?

A. Why sure. We'd put the chain back together and go back to work again. [98]

Q. You inquired how it broke and that is what they told you? A. Yes.

Q. Were there any times when the men were instructed to put the edgings into the hog conveyor or to set them back as you say that strips did get into the conveyor?

A. You mean in the bottom conveyor?

Q. Yes.

A. The short ones always got in there.

Q. Yes, I understand that. They drop off from behind the edger table, but were any of the long ones ever put in there?

(Testimony of Alvin Waitts.)

A. You mean deliberately throwed in back and throwed in?

Q. Yes, thrown in. Were they put in there at times when the hog was in operation?

A. Not deliberately throwed in, no.

Q. Were they ever put there when they were told to place them in a pile behind the edger table?

A. No, if they did the pile wouldn't build up. They build a big pile there, you see.

Q. I see. But were the men ever instructed not to throw those strips into the big conveyor?

A. Yes.

Q. Were they ever instructed not to?

A. Yes.

Q. Did the men ever do it? [99]

A. Ever throw it in?

Q. Yes.

A. No, not deliberately throw them in there.

Q. But they did get in there?

A. The short ones.

Q. The long ones, too? A. I don't know.

Q. You don't know. How is it that you know that the short ones got in but you don't know the long ones got in?

A. Well, if the long ones got in a man has got to pick it up and back up and toss it under the hog conveyor, see; and if a man does that why he's deliberately throwing them in.

Q. But even at that during the times the chain did break you were down, as you stated?

A. Yes.

Q. Both times? A. Yes.

(Testimony of Alvin Waitts.)

Q. And that the men did remark that it broke because of the edging under the far end of the conveyor?

A. They sent a man out there when they had to throw one in to keep them out from under the chain.

Q. Now, you say that you helped to organize the men in the A. F. of L. Union? A. Last year.

[100]

Q. Last year, not this year?

A. Not this year, no.

Q. I see. And that you did sign up some 17 men, you say? A. Last year.

Q. Last year? A. Yes.

Q. And were you a member of the Union at that time? A. Not paid up, no.

Q. Yet you signed the men up?

A. That is right. I tried to.

Q. (By Mr. Cheney) Did you have authority from the Union to sign up those men?

A. An organizer gave me the authority. He gave me the cards. [101]

Q. But you were not a member of the Union at the time? A. No, not at that time.

Q. Did I understand you correctly to say ten days later that Lionel called them together?

A. Approximately that; when he found out they were trying to go Union.

Q. How did he go about calling them in together?

A. He just told them to wait a minute. He

(Testimony of Alvin Waitts.)

wanted to talk to them and they all waited in front of the office.

Q. And then his words were that he would rather not that the men join the Union and if they did they would have to lower wages to the Union scale?

A. He said "We are overpaying some of the Union scale at the present time," and he said, "Some of you fellows will be lowered if we join the Union to get the Union scale."

Q. Was it a fact that the men were paid higher than the Union scale on some of the jobs?

A. Well, I believe the pond was at that time working—on the pond, yes.

Q. After that time—at that time what were you getting? What were your wages?

A. \$1.12½.

Q. \$1.12½?

Q. Were your wages lowered after that time?

A. No. [102]

Q. Do you know of any men whose wages were lowered? A. No, they didn't lower no wages.

Q. You said that the men scattered. You mean by that—just what did you mean by that? Do you mean that the men just wouldn't talk union any more?

A. No. They wouldn't talk Union any more. That is right.

Q. That was to your knowledge all that Lionel told them?

A. Well, they didn't want Union any more, they

(Testimony of Alvin Waitts.)

didn't want no more of it. I guess they decided we was doing all right without it or something.

Q. Well, now, did any man ever tell you that because of what Lionel said that he didn't want to have anything to do with the Union? A. No.

Q. Did that change your affiliation with the Union? A. No.

Q. And you don't know of any man whose activities might have been affected; no man ever told you that what Lionel said was going to make any difference with him, and that he was going to reject his application and so forth?

A. Well, they just wouldn't talk about the Union no more.

Q. No man ever told you that that affected his decision as far as the Union was concerned?

A. No; no man ever told me that.

Q. No, and then at a later time I believe you said that Mr. [103] Pease—that you came to Mr. Pease and said—and asked him what he had against the Union? A. That is right.

Q. You brought up the question to him?

A. That is right.

Q. And he gave you his answer?

A. That is right.

Q. He didn't like the Union and didn't want to have anything to do with it?

A. That is right.

Q. (By Mr. Cheney) Did you feel that Lionel

(Testimony of Alvin Waitts.)

Pease's opinion of the Union was the opinion of the Company toward the Union?

A. I wouldn't have no way of knowing.

Q. But how did you feel about it personally?

A. He was the head of the Company at that time and he was [104] representing the Company that is the only fellow we knew.

Q. Did you know me?

A. I don't even know your name.

Q. I was there approximately last September, August and September.

A. I knew you when you come down.

Q. Did you know Mr. Cheney here?

A. Yes, I knew Mr. Cheney.

Q. Did you ever talk to him or did he ever talk to you about the Union? A. Mr. Cheney?

Q. Yes.

A. He told me it was all right for us to join the Union at one time if we wanted to, it was O.K.

Q. When was that that he told you that?

A. I don't know. Some time last year, I believe.

Q. Some time last year? A. Yes.

Q. And you know that Mr. Cheney, Mr. Ben Cheney is the President of the Company?

A. That is right.

Q. And he told you it was all right?

A. Yes.

Q. Going back a little bit here, do you know why the men that were working behind the edger were

(Testimony of Alvin Waitts.)

told not to throw [105] the strips into that big conveyor? A. They said it caused it to break.

Q. I see. Did the conveyor break after that?

A. Yes. A number of times.

Q. And that was the time when you were told then that the conveyor broke because of the edging being in it? A. After they put the hog in.

Q. Now, I asked you the question first if the men were ever told not to, and you said "Yes." And because the men were told that the conveyor would break if they were thrown in. Did the conveyor ever break after that?

A. Yes, a number of times.

Q. And did you understand at those times, at those later times when it broke that it broke because strips or edgings did get in under the gear at the end? A. I don't quite get you.

Q. Did you understand that the reason the conveyor broke at those later times was because the strips got in there in the conveyor?

A. Not necessarily every time, no.

Q. Not every time, no, but there were times when it did?

A. Well, that is entirely up to the fellows out there. Now, I couldn't say because I wasn't out there.

Q. But you did help repair it?

A. Yes, I pulled the chain back every time it broke. It [106] taken the whole crew to do it.

Q. Yes, I understand.

(Testimony of Alvin Waitts.)

Redirect Examination

Q. (By Mr. Jennings) During 1942 who was the Manager of the Company at Greenville?

A. What?

Q. Manager of the Company's mill at Greenville? A. Pease.

Q. Lionel Pease, is that right?

A. Yes, Lionel Pease.

Q. Who hired you? A. Lionel Pease.

Q. Who hired the other men out there?

A. Lionel did.

Q. Who did the firing of the men?

A. Lionel.

Q. Who told them what jobs to take, what to do?

A. I believe Jake was last year. When he would hire a man why Jake would take him and put him on his job.

Q. That is when Lionel would hire men Jake Williams would put them on the job?

A. I believe that is right, yes.

Q. And did Jake Williams work as well as supervise? [107]

A. No. He'd help repair and get the mill going you know, here and there.

Q. After Mr. Pease talked to the men did you continue your efforts to interest the men in the Union? A. No.

Q. Or did you stop?

A. No, I stopped. It seems like I kind of got

(Testimony of Alvin Waitts.)

unpopular some way at that time. They wouldn't talk Union at all.

Mr. Jennings: That is all.

Recross Examination

Q. (By Mr. Cheney) Now, you say you got unpopular. Did the men shun you?

A. No, no. They just wouldn't talk Union. You started talking Union and they wouldn't talk no more. No use trying it. They'd say "We can never get a Union here, no use of trying it." So nobody would sign a card.

Q. But the men didn't specifically tell you why they wouldn't talk Union?

A. No, they didn't.

Q. Did you have any—make any effort to organize the Union in the mill this spring?

A. No.

Q. You had nothing to do with that?

A. No, I had nothing to do with it.

Q. Did you sign up with the Union? [108]

Q. The mill was down for a while this spring, was it not; this winter? A. Last winter.

Q. And you lost some time?

A. Yes. I went down below.

Q. You went down below?

A. And worked below, yes.

Q. Some place else? A. Yes.

Q. When you came back the job was waiting for you? A. That is right.



(Testimony of Alvin Waitts.)

Q. And you have worked steadily since?

A. That is right.

Q. And have you had any lay-offs since the mill got started?

A. Oh, a few at the beginning. We haven't had many, though.

Q. What were the causes of those lay-offs that you did have?

A. Practically cars I think is the only lay-off we have had. That is, loading cars, you know gondolas.

Q. You said that you did sign up with the Union this spring? A. That is right.

Q. But you haven't experienced any unusual lay-off or lost any time since that time. There has been no discrimination against you because you did sign up with the Union?

A. Oh, no. Not this year. [109]

Q. Well, did you lose any time last fall from signing up with the Union?

A. Not for signing up with the Union, no.

Q. That is what I wanted to know.

A. No.

ALBERT ROY NORBERG

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

(Testimony of Albert Roy Norberg.)

Direct Examination.

Q. (By Mr. Jennings) What is your full name, please? A. Albert Roy Norberg.

Q. How old are you, Albert? A. Nineteen.

Q. Where are you working at the present time?

A. Cheney Lumber Company.

Q. How long have you been working there?

A. Since a year ago last either May or June.

Q. May or June of 1942 you started?

A. Yes [110]

Q. And what job have you held out there?

A. Well, to begin with I started pulling green chain out there and a few odd jobs and then later I started driving carrier.

Q. You are driving a carrier at the present time? A. That is right.

Q. Calling your attention to March of 1943 were you working at that time? A. Yes, I was.

Q. Were you driving a carrier? A. Yes.

Q. And do you remember the occasion during March of 1943 when you and Clayton Block were talking about the Union with some of the other men there? A. Yes, I do.

Q. Whom were you talking with?

A. Well, there were several of the boys around there. There was Herman Higday—

Q. Was he the foreman at that time?

A. Yes, he was; and George Christiansen and a few others of the men around there. I really don't recall them all.

Q. Now, on what side of the argument were you?

(Testimony of Albert Roy Norberg.)

A. Well, I was just talking Union and the other boys were non-Union.

Q. What about Clayton Block; what was he arguing? [111]

A. Well, he was for the Union too.

Q. You and Clayton Block were arguing for the Union? A. That is right.

Q. And you say Higday and Christiansen were arguing against it? A. That is right.

Q. How long did the argument last?

A. Well, about, oh, not too long. About a half hour or so. Noon hour, I think it was.

Q. Did Mr. Pease come over there during the time the argument was going on?

A. I really don't recall him coming over there but he was around there at the present time.

Q. At the time the argument was going on?

A. Yes, off and on.

Q. Do you recall what Higday had to say about the Union at that time?

A. No. Not in the exact words, but he was arguing against it. I just don't remember what he said about it.

Q. You don't remember exactly what he said?

A. No.

Q. Do you recall a few days after that Mr. Pease called you into the office? A. Yes, I do.

Q. And what did Mr. Pease say to you at that time? [112]

A. Well, he says that there were three of us that

(Testimony of Albert Roy Norberg.)

were talking too much around there, there was Clayton Block and Leown Ware and myself.

Q. Leown Ware is also known as Ira Ware?

A. That is right.

Q. And what else did he say?

A. And he said if I didn't stop talking too much about things I said, but he didn't say what I'd be talking about, he said he'd have to let me go.

Q. Did you ask him whether he objected to your work?

A. I asked him if my work was satisfactory and he says he didn't know of anything against that but he says I was just talking too much.

Q. Were you fired?

A. Well, undoubtedly I was fired because the following weekend I got two checks, a time check and my other check, I no doubt was.

Q. That is normally you get one check?

A. Yes, that is right.

Q. You say you got two checks?

A. Yes, a time check and the other one.

Q. What do you mean a time check and another one?

A. Well, if you go in and draw your time they pay every Saturday with a week hold-back. I got two week's pay instead of one. [113]

Q. So that you got one closing check?

A. That is right.

Q. And then you got another check for the period following that of the closing check?

(Testimony of Albert Roy Norberg.)

A. Yes.

Q. You actually worked continuously, though, didn't you? A. Yes. [114]

Cross Examination

Q. Were you one of those that signed up with the Union last fall? A. Yes.

Q. And it was commonly known, was it, that you were one of those that signed?

A. Yes, it was.

Q. And of course this spring you signed up with the Union at that time?

A. I didn't sign that paper but I had already signed up with the Union.

Q. That is what I say, you signed up with the Union? A. Yes.

Q. And you haven't experienced any lay-off or any discrimination against you in your job? [117]

A. No, not lately.

Q. You say that you got into an argument with several men at the mill? A. That is right.

Q. On the Union question. How did that happen to come up?

A. Well, there was several of the boys in the shop wanted to talk there. They were arguing about the Union. Clayton Block and I were arguing for it and they were arguing against it.

Q. Who were those that were arguing against it?

A. Well, there was quite a few of them but I

(Testimony of Albert Roy Norberg.)

don't remember all of them. I remember three or four or half a dozen.

Q. That were arguing against the Union?

A. Yes.

Q. You don't remember who they were, though?

A. Well, as I said before there was Herman Higday and Joe Josephson and George Christiansen and Kenny DeWitt.

Q. Were you familiar with all these persons; that is personally, you knew them quite well, didn't you? A. Yes, I did.

Q. Did you ever get into other discussions with them during the noon hour like politics and base ball games and foot ball games?

A. Oh, now and then.

Q. Did you talk about lots of different subjects?

[118]

A. Yes, I did.

Q. And one of those subjects was the Union?

A. Yes.

Q. As is often the case? A. That is right.

Q. Did Higday in arguing in this Union argument, did he state at any time that the Company felt or had any compunction against the Union?

A. No. But every time we'd talk about the Union he'd sit there and laugh at us and throw slams at it. I don't remember the slams he'd throw and I wouldn't want to say them here.

Q. Was the Company's name mentioned in those; in the profanity you speak of?

(Testimony of Albert Roy Norberg.)

A. He says if we didn't like where we was working and trying to cause trouble is what they thought it was to get the Union in there, why we could go some other place.

Q. He never threatened you with your individual job? A. No, he didn't.

Q. As a matter of fact, you worked steadily right along all the time?

A. Yes. When the mill was working.

Q. Did you know of any other man whose job was directly threatened because he happened to sign one of those union cards; anybody who was told he was going to be discharged? [119] I would like to know, because I'd like to call him to the stand.

A. On account of my signing the union card?

Q. On account of any man that signed the union card. I'd like to know because I'd like to call that party to the stand.

A. I never heard him threaten anyone but myself.

Q. Now, I asked you if you were threatened and you said that you were not threatened. How would you explain that?

A. I misunderstood you then. On the morning he called me into the office that is what he called me in there for, no doubt; because I tried to get out what he called me in there for and he wouldn't tell me.

Q. You mean you were just called in the office and he wouldn't tell you what you came in there for?

(Testimony of Albert Roy Norberg.)

A. He says I was just talking too much.

Q. Did he say what it was that you were saying too much about?

A. Well, I found out what it was because we had argued about the union there and them boys went and told him about it and then he jumped my neck.

Q. Who was this in the office that was talking to you? A. Lionel.

Q. Lionel Pease? A. That is right. [120]

Q. You continued and went back and went to work?

A. That is right. My brother went to bat for me there or I'd have been walking down the road yet.

Q. How is that?

A. I say when he let me go there my brother went to bat for me there and says if I left why he would. That is why I'm there now.

Q. You mean that is the only reason you're there at the plant now? A. That is right.

Q. Is Mr. Lionel Pease working for the Company now? A. I haven't any idea.

Q. Well, you know he's not at the plant, don't you?

A. Well, sure but he could be working for the same company though.

Q. Well, he's not at the plant, is he?

A. No.

Q. Is Mr. Higday at the plant?

A. No, he isn't.

(Testimony of Albert Roy Norberg.)

Q. One of those parties that you said argued against the Union is he working there now?

A. No, he isn't.

Q. Is Mr. Williams, another one that you mentioned; is he working at the plant? A. No.

[121]

Q. Is Mr. Christiansen working at the plant?

A. No.

Q. None of those men are—Joe Josephson working at the plant? A. No, he isn't.

Q. None of those men that you allegedly say talked against the Union are working there?

A. No, not that I recall right now.

Q. Then you mentioned that you got two time checks? A. That is right.

Q. What were the dates of those time checks?

A. I haven't looked them up but I could. They're on the books no doubt.

Q. Was that prior to the election or after the election?

A. Well, it was after this argument anyway.

Q. I see. After the argument. A. Yes.

Q. Was that argument before or after the election?

A. I really don't know. I think it was before.

Q. You were signed up in the Union at that time? A. That is right.

Q. What is your draft classification, Mr. Norberg? A. 2-B.

Mr. Jennings: Objected to as incompetent and immaterial. [122]

(Testimony of Albert Roy Norberg.)

Trial Examiner Ward: Sustained.

Mr. Cheney: Your Honor, I want to show that this boy who allegedly claims to have been threatened with his job and might have been discharged has been—that an affidavit was filed by the Company asking and requesting that he be left with the Company and allowed to work. That that affirmative action was taken by the Company to keep the man in our employment, because he was a valuable employee to us.

Trial Examiner Ward: The objection will be overruled and I will reverse myself. He may answer.

Q. (By Mr. Cheney) What is your classification? A. 2-B.

Q. When did you receive this 2-B classification?

A. I have had two of them.

Q. Well, do you remember when the first one was given to you?

A. Yes, I do. From December 10th until June 10th.

Q. That was the first one?

A. That was the first one.

Q. And then the second one June 10th for another six months?

A. From June 8th to December 7th.

Q. Another six months each time?

A. Right.

Q. Did the Cheney California Lumber Company request that [123] permit?

A. They asked for it, yes.

(Testimony of Albert Roy Norberg.)

Q. And you received it?

A. That is right. But I have been bribed with that deferment ever since.

Q. I didn't understand you.

A. I have been bribed with that deferment ever since.

Q. Bribed? A. That is right.

Q. I'd like to know what you mean by that. I wish you'd explain yourself.

A. One morning I was standing in front of the office there when Lionel was pretty hot, he came up and looked at me and he says, "There are going to be a lot of deferments that aren't going to be renewed either." That is before I got the last one.

Q. I see. But your deferment was renewed?

A. That is right.

Mr. Cheney: All right.

Trial Examiner Ward: Let me ask, can the Company state just when Lionel left their employment?

Mr. Cheney: Yes, approximately. I think I can state it was about June, around June 20th, and all these men left at the same time.

Q. (By Mr. Cheney) Do you recall asking Mr. Ben Cheney here [124] to get the deferment for you? A. I did the second one.

Q. And the deferment was obtained?

A. That is right. [125]

Redirect Examination

Q. (By Mr. Jennings) At the time you and Block were arguing about the Union was Block working? [128] A. Yes, he was.

(Testimony of Albert Roy Norberg.)

Q. And how long did Block continue to work after this discussion?

A. Well, I really don't remember the date but he went to the hospital one night and when he came back he worked just a little while on the chain and Lionel called him in and told him he had to go.

Q. (By Mr. Jennings) Do you recall whether this time you talked to Pease was about in the vicinity of the time when Clayton was fired?

A. Well, he told me that morning he was going to let Ira Ware and Clayton Block go anyway. [129]

CLAYTON BLOCK,

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination [180]

Q. Now, did you receive a termination notice?

A. Yes, I did.

Q. From Mr. Pease? A. Yes, I did.

Q. Do you recall what the termination notice said upon it?

A. I got two termination notices.

Q. What did the first one say?

A. The first one said, "Failure to do his work." I believe that is the exact words as I remember. I showed it to a few [189] of the men around there.

(Testimony of Clayton Block.)

Q. Did you take the termination notice from Mr. Pease then when he gave it to you?

A. Yes.

Q. You say you showed it to a number of the men? A. Yes.

Q. Was your father working at that time?

A. Yes, he was, on the two by fours.

Q. Did you show it to him?

A. Yes, him and Glenn, what was on there.

Q. Thereafter did you go back and talk to Mr. Pease further about it? A. Yes.

Q. What conversation did you have with Pease at that time?

A. Well, I got pretty mad. The more I thought about it, the madder I got, and I went back to tell Lionel I didn't think that was very much man in him, firing me for something like that, when he knew, and I knew myself, that I did my work, and so did everybody else in the mill. And he said—I don't know what the conversation was, but anyway he said personally he had nothing against me, but that my work wasn't satisfactory, and I guess we talked there for twenty minutes, and before I left the office I was inclined to believe it myself, the way he talked to me.

Q. Thereafter, did you do anything further? Did you talk [190] to any of the other men about it?

A. Yes, as that conversation went, why, Lionel told me if I didn't think that that was right, I

(Testimony of Clayton Block.)

could ask the men about it. And I told him that I thought I would. And that night Glenn's oiling job was coming up, and the men were called on a meeting there, so when Glenn got through, I asked the men about it.

Q. That is you say at this time, the day you were fired, there was some discussion about whether or not Glenn was to have an oiling job?

A. Yes.

Q. And there was a meeting about that?

A. Yes.

Q. And then after that meeting, you talked to the men? A. Yes, sir.

Q. And what did you ask the men?

A. Well, I told the men, I think there was some of them didn't know I was fired, I told them I was fired, and I asked them all—I tried to, I got kind of sore there and blew up. I messed things up, you might say, but I tried to, and I got—I think I got every one of them personally there, and asked them—I had worked with every one of them during the ten months that I'd worked there, about ten months—and asked every one of them if I did my work or if I didn't, and there wasn't a man there that said that I didn't do my work. [191]

Q. Did you ask Pease then to change your discharge slip?

A. No, I never—oh yes, my discharge slip, yes. I asked him to change that release for me.

Q. Did he agree to change it? A. Yes.

(Testimony of Clayton Block.)

Q. Did he give you a new one?

A. Yes, he did.

Q. He gave you a new one? A. Yes.

Mr. Jennings: I ask that this be marked as Board's Exhibit 3 for identification.

(Thereupon the document above referred to was marked as Board's Exhibit No. 3 for identification.)

Mr. Cheney: No objection.

Trial Examiner Ward: It hasn't been offered yet.

Q. (By Mr. Jennings) Showing you Board's Exhibit 3 for identification, Mr. Block, is that a copy of the termination notice that Mr. Pease gave you at that time? A. Yes.

Q. What did you do with the old notice?

A. Lionel kept that old one.

Q. You gave it back to Lionel Pease?

A. Yes.

Mr. Jennings: I'll offer Board's Exhibit 3 for identification in evidence. [192]

Trial Examiner Ward: It will be received.

(The document heretofore marked Board's Exhibit No. 3 for identification was received in evidence.)

(Testimony of Clayton Block.)

BOARD'S EXHIBIT No. 3

Deliver this copy to the worker at the time
his services are terminated

Use This Form Only for Reporting Terminations
of Service Involving Possible Disqualification

Social Security account number of worker

530-10-0282

Name of worker Clayton Belden Block

Date of this notice 4/5/43

Last date individual worked 3/18/43

Date employer was informed of worker's termina-
tion of service if other than date entered in the
preceding item

Employer's name and address must be typewritten
or entered in ink

Cheney Calif. Lbr. Co.

Box 143

Greenville, Calif.

Do not ask the worker to sign this form

Instructions for the worker appear on the reverse

Termination Notice Concerning

Possible Disqualification

Cause of Termination of Service

Check item 1, 2, 3 or 4, or state the cause of
separation under item 5. Present full explanation
under item 6:

1 Left voluntarily

2 Discharged for misconduct connected with his
work

(Testimony of Clayton Block.)

3 Worker not able to work

4 Worker not available for work

5 Other cause To take a more essential job in
logging industry

6 Explanation

For Alton Jacks

I Certify that the information given on this form
is true and correct to the best of my knowledge and
belief.

By LIONEL PEASE

Signature of individual completing
this notice

California Department of Employment
Affiliated with Social Security Board

[193]

LINDSAY GEORGE GLENN,

a witness called by and on behalf of the National
Labor Relations Board, having been first duly
sworn, was examined and testified as follows:

Direct Examination [223]

Mr. Jennings: Will you mark this card as
Board's Exhibit 4 for identification?

(Document above referred to was marked
Board's Exhibit 4 for identification.)

Q. (By Mr. Jennings) Showing you Board's
Exhibit 4 for identification, Mr. Glenn—

A. Beg pardon!

(Testimony of Lindsay George Glenn.)

Q. Will you look at this card, please, and tell me whether or not that is the pledge card that you signed? A. That is the card I signed.

Q. Dated March 17, 1943?

A. I see it is. I was a couple of days off, but I wasn't positive about my date.

Q. Did you put that date in?

A. Yes. That is the date. I am quite sure of that. I put the date, and there's my signature. That is my writing.

Q. You signed the card then, March 17, 1943?

A. That is right.

Mr. Jennings: I offer the card in evidence as [238] Board's Exhibit 4.

Mr. Francis Cheney: No objection.

Trial Examiner Ward: It will be received.

(The document heretofore marked Board's Exhibit 4 was received in evidence.)

(Testimony of Lindsay George Glenn.)

BOARD'S EXHIBIT No. 4

APPLICATION FOR MEMBERSHIP

Lumber and Saw Mill Workers

In The

United Brotherhood of Carpenters and
Joiners of America

City—Greenville

State—Cal.

Date—Mar. 27

Name of Applicant—Lindsay L. Glenn

Date of Birth—Feb. 8, 1900

Employed by Cheney Lbr. Co.

L. U. No. 2647

Address—Greenville

I hereby make application to become a member of the United Brotherhood of Carpenters and Joiners of America. In doing so, I of my own free will and accord, hereby authorize the United Brotherhood of Carpenters and Joiners of America, or its representative, or officers to act for me as a collective bargaining agency in all matters pertaining to rate of wages, hours and other conditions of employment.

Signed L. G. GLENN [239]

Cross Examination

Q. (By Mr. Cheney) Mr. Glenn, you stated that your [275] relationship with Lionel Pease when you

(Testimony of Lindsay George Glenn.)

first started to work was—you were on good terms with Mr. Pease when you first started there?

A. Yes, sir.

Q. And that was in February of 1942?

A. I started in February of '42.

Q. And when did you leave the employment of the Cheney California Lumber Company the first time? How long did you work before you left?

A. Where did I work?

Q. Yes.

A. I worked some few days, approximately two weeks at Evans' Mill.

Q. When was—how long was that?

A. That was in '42.

Q. I see. But what time of the year, what month?

A. I don't remember what month it was. I would say in March, something like that. I don't remember the month.

Q. And you quit work at the Cheney California Lumber Company; went to work for Mr. Evans?

A. Yes.

Q. What was Mr. Evans doing? What was your position with Mr. Evans?

A. I went out there to build a mill. Mr. Pease came to me and he says, "Glenn," he says, "there is an awful good deal [276] on out here at a place," he said. "You might be interested in it, being that you have run sawmills," he said. "I am interested in it myself," he says, "I may get ahold of it myself later on."

(Testimony of Lindsay George Glenn.)

He says, "You can get—you can contact the mill, get it on a contract basis."

And he said, "We can handle the lumber here," and he said, "I believe that there is a good piece of money in it, if you are interested," and I says, "Where is it at, Lionel?"

He says, "It's at Genesee."

I says, "I'm afraid of that logging proposition. I know that country pretty well up there."

He said, "No, the old man is really fixed up to where they can get the logs and put the logs there."

"Well," I said, "if it is that way I wouldn't mind something like that."

And he said, "He's coming in the morning."

He said, "If you're interested, and want to go out there," he said, "I'll bring him around where you're at," and he did.

Q. So you went to work out there?

A. Yes, sir.

Q. And how long did you stay out there?

A. Something like two weeks.

Q. And then what was your next move? [277]

A. I come back and went to work with Lionel. Lionel told me at the time I left, he said, "Glenn, if you want to go out there and"—he told me that—

Q. You felt that that was a friendly gesture on Lionel's part?

Mr. Jennings: I object to the interruption. He hasn't finished his answer.

(Testimony of Lindsay George Glenn.)

Trial Examiner Ward: Let him finish the answer.

A. (Continuing) He said, "Glenn, if you want to go out there," he said, "We'll put it this way: About all the time you'll lose is going," he said. "You won't lose no time, you might say." He said I wouldn't lose no time from coming from his place back to him.

He says, "I'll put you right back here."

Q. So you came back to work at the Cheney California Lumber Company? A. I did.

Q. And Lionel offered you the job of sawing then at the Cheney California Lumber Company?

A. Lionel offered me that job.

Q. And then you refused the job?

A. Well, under some—

Q. Then you worked at different jobs around the mill and then you were put on a filing job after hours, were you not, while you were strip catching, I believe? [278]

A. Yes, I had some filing to do.

Q. You had extra-hour work to do?

A. I finished the edger saws after they went down, you know.

Q. And when was that? Was that in 1942 and '43, or just when was it? When did you have this extra work filing?

A. Well, I believe that was summer, last summer; I don't remember.

Trial Examiner Ward: When you refer to last summer you mean the summer of 1942?

The Witness: '42, yes.

(Testimony of Lindsay George Glenn.)

Q. (By Mr. Cheney) Then as I understand it; you came to Lionel and told him you didn't think that you had better do that extra filing work there, and do that extra work those extra hours and so you quit that extra work, did you?

A. I told him I felt that one man should have all the filing, yes.

Q. So you quit then, and you gave up that extra work that was offered you? A. Yes.

Q. Then when winter came along the mill shut down and you were offered two or three days of work a week, were you not?

A. Yes, there wasn't nothing signified. He said there wouldn't be much work. Said there might be two or three days. [279]

Q. And you made the statement that you would rather be on unemployment than work three days a week?

A. I says, "Lionel, if it's all right with you I can work elsewhere, and work steady." I said, "As far as two or three days, I can't really get by on that," and I said, "That wouldn't be much more than unemployed."

Q. You said that you would rather be on unemployment?

A. I didn't say I'd rather because if I'd had I'd have got on it. I have rode my unemployed just as little as any men in this town, and I could have rode it every year, you know. I always try to work.

Q. You made the statement that you were fighting the union at first? A. In '42.

(Testimony of Lindsay George Glenn.)

Q. In '42 you were fighting it?

A. Pardon?

Q. You were fighting it in '42?

A. When did I do it?

Q. You were fighting it in '42?

A. I didn't exactly fight the Union, but I said, "Boys, we don't need it," in front of the whole gathering, at the time Mr. Pease said we didn't want it.

Q. Now, getting back to the strip catcher job that you had, which job did you have? Did you have the one that cut the strips or the ones that straightens the two by fours? There are two jobs behind the edger as I understand it, and [280] which was your job?

A. Well, the last time I was on the right hand side.

Q. You were the strip catcher?

A. Yes, sir. That is where I was last.

Q. And Mr. Allan had the job of straightening the two by fours, is that correct?

A. That is right.

Q. And it was your responsibility to take the strips and it was Mr. Allan's responsibility to take the two by fours? A. Yes, sir.

Q. And it was your job to take those strips and put them where they were supposed to be and Mr. Allan would put the two by fours where he was supposed to put them? A. Yes, sir.

Q. And if the strips got into the conveyor or any place else, why, that was your responsibility?

(Testimony of Lindsay George Glenn.)

A. No, sir.

Q. Did you go over and straighten two by fours for Mr. Allan? A. Yes; we worked together.

Q. And he came over and took strips for you, too?

A. Yes, sure; he'd catch some strips. The jobs worked together. We would have to at that time.

Q. And it was your job, however, mainly, with the strips? [281] A. That was my job.

Q. That was your responsibility?

A. I was on the strip side, yes; that was my job.

Q. Now, you mentioned something about a committee that was to inspect a working agreement, and on this committee was Mr. Williams, Mr. Major and yourself; is that right?

A. That was right.

Q. And you inspected this working agreement?

A. Yes, sir.

Q. Was there anything in that working agreement that seemed to be contrary to the Union belief or Union affiliation?

A. Why, it was better than the Union.

Q. It was even better than the Union?

A. Yes, sir.

Q. You liked it?

A. There was nothing the matter with it.

Q. There was nothing there that you would say had anything to do with discouraging you from belonging to a Union?

A. Sure not. It was better than a Union if he'd have lived up to it.

(Testimony of Lindsay George Glenn.)

Q. But on this committee there were men that were selected by the men themselves and Lionel had nothing to do with the selection of these men?

A. No. [282]

Q. You say that you wore a Union button after you signed up with the Union? A. I did.

Q. Did Mr. Pease ever criticize that button that you wore?

A. I never heard him say one word.

Q. Mr. Pease was in charge of the mill, wasn't he? A. Mr. Pease was the foreman.

Q. Did Mr. Ben Cheney, the president of the Company, ever criticize that button that you wore?

A. I don't know if he even seen it, and he sure didn't criticize it, no.

Q. Did Lionel ever tell you not to join the Union, that you definitely could not join the Union?

A. No. But he always said he didn't want the Union.

Q. Did you understand that to be Lionel's own personal opinion about the Union?

A. No, I didn't. I didn't know whose opinion it was. Of course, I knew Lionel was running the mill, and that is all I knew.

Q. And he told you—he didn't tell you not to join the Union but he said he'd rather that you did not join the Union? [286]

A. That is right. Or, in other words, he'd shut it down if it went Union.

Q. Did he tell you that he would shut that mill down if it went Union?

(Testimony of Lindsay George Glenn.)

A. Mr. Pease certainly told me in plain words that if it went Union he would shut it down.

Q. Did the mill go Union?

A. It hasn't yet.

Q. Didn't you sign up; didn't you say that you signed up some thirty men?

A. I said I had signed something like, I'll say 30 cards or more out of about 40.

Q. You told Lionel you had done that?

A. But he refused those cards and wouldn't have them. He says the cards are not worth a damn.

Q. Did Lionel ever shut the mill down for that reason?

A. Why, no, it hadn't went Union, you know.

Q. He never shut the mill down?

A. No, because it hadn't went Union. He would if it went Union, he said.

Q. Did Lionel ever threaten to fire you if you joined the Union? A. No.

Q. Did you ever hear him threaten to fire anybody else if they joined the Union? [287]

•A. The worst I ever heard Lionel say was speaking of Mr. Ware, that if he got into the Union, he might not be able to get rid of him.

Q. If who got into the Union?

A. Mr. Ware, Ira Ware. [288]

Q. Did Lionel ever tell you that the Company did not want the men to join the Union?

A. Lionel, as I stated before, told me that he didn't want no Union.

(Testimony of Lindsay George Glenn.)

Q. He didn't want any?

A. And they didn't aim to have no Union, and that before they would have, they would shut it down.

Trial Examiner Ward: The question was, did he ever tell you that the Company didn't want a Union?

The Witness: He didn't mention the Company. He said, "I don't aim to have a Union."

Q. (By Mr. Cheney) Did he ever mention the Company in any [291] of these discussions about the Union? A. No.

Q. And did Mr. Ben Cheney here ever mention any Union activities to you? A. Mr. Cheney?

Q. Yes. A. No.

Q. Did Lionel ever tell you that he would fire you, or that he did, after you were fired, that he did fire you for Union activity?

A. Sure not.

Q. He told you that he did fire you because-----

A. I couldn't do a job in the mill.

Q. You couldn't do a job in the mill?

A. Not a one, is what he said. It took a year and a half to learn that. [292]

Q. Now, going back to the time that you were working as a strip catcher, the last job you held at the mill, you stated [294] that the conveyor chain broke numerous times while you were working there. A. That has always done that.

Q. And that Mr. Higday told you not to throw

(Testimony of Lindsay George Glenn.)
the edgings into the conveyor while the hog was running? A. Yes, sir.

Q. Now, did he ever tell you to put edgings—when the hog was down, did he ever tell you to put the edgings some place else?

A. He had told you, you know, as I stated before, to throw them back behind.

Q. Did you always do that when the hog was down? A. Yes, but that day you couldn't.

Q. That day you couldn't do it?

A. As I told you, the lumber was way up over there and I told the planer man I was just going to let them through. I says, "I can't do nothing else with them, Earl." He says, "Glenn, you're not going to do that." And I says, "You go see somebody and let's get it straight some way, because I'm not going to throw them in there, and Earl—I don't know what happened. Anyway, he come back after a while, and he said, "Boy, don't you let some strips go through the planer." And I said, "Well, Earl, I don't want to make it hard on you, but it ought to be adjusted some way." I says, "You better see somebody, because I don't aim to put them [295] inside that conveyor."

Q. That day the chain broke several times, I understand.

A. No more than usual. The chain was always broken.

Q. And Mr. Higday came to you, did he, several times? Three times, I believe you said.

(Testimony of Lindsay George Glenn.)

A. I think something like three times.

Q. To tell you to quit throwing them in there?

A. He says, "Glenn, quit throwing them strips in there," and I says, "Herman, I'm not doing that." And the last time he said it pretty harsh, and I said, "Why don't you jump onto that man over there?"

Q. You mean Mr. Allan?

A. And he says, "I will." And I says, "Tell him your troubles. Don't tell me, because," I says, "Herman, I'm not putting them in there."

Q. Mr. Allan was throwing them in, inside?

A. Yes.

Q. And Mr. Allan was working on the side that straightens the two by fours at that time?

A. Yes.

Q. Not the strip catcher?

A. Yes, sir. May I make this expression, "You know there is a time when maybe the strips will come out there, which if there is two strips is all any man had to get is a cinch. But perhaps, you know, the bad lumber will come through [296] there. There would be four, five or six two by fours and not a one of them any good. Well, I'd just stand there and get every one that I could get, and during that time they're traveling away from you all the time, and then Mr. Allan would get whatever he could get."

Q. Mr. Waitts, I believe that feeds the edger, is that right?

(Testimony of Lindsay George Glenn.)

A. Mr. Alvin Waitts, yes, sir.

Q. And was he usually considered—he wouldn't know you under. He'd watch and see that you got the things away? A. He tried to be, yes.

Q. He tried to give you every consideration he could? A. Yes, sir.

Q. He'd give you time to get those away?

A. Yes, but he stated yesterday if they put it to him, he had to get rid of it somewhere. It had to go. He got rid of it.

Q. I believe you stated that at the end of the day, the conveyor broke the last time?

A. I beg your pardon?

Q. The conveyor broke at the end of the day, just before quitting time of the last day of work that you had there?

A. I don't believe I made that information. If I did, I don't remember it. I don't remember it broke the last minute that I worked there. I don't remember that.

Q. But you do remember that it broke that day, and that [297] there were strips—

A. Well, as I stated, it broke practically every day. He hardly ever got to run a day unless that chain did break. Don't make any difference whether I was behind it or somebody else. The chain broke practically every day. You can talk to any of the men and find that out.

Q. The chain was getting worse all the time, I take it?

(Testimony of Lindsay George Glenn.)

A. Sure it was. And the chain, as I stated before, in my estimation is too high speed. The thing was running fast, and a very poor job of putting in the rollers back behind. Just a little old short space there, and the building sitting right on top of that, you know, and if anything come in under that chain, it would hang it right there.

Q. For instance, like a strip would get under it?

A. Yes, if it would get under it, a strip or a slab or anything, of course.

Q. And it was found—you knew, did you not, that the chain would break if edgings would get caught in there? A. Beg your pardon?

Q. Did you know that the chain would break if strips would get caught in there?

A. Well, we'd say you could run maybe an hour or two hours, and maybe it would go in there, and maybe just a little—maybe a long one wouldn't break it, and maybe just a short one would fall off and break it. More or less, the short [298] ones is all that did break it. Two-thirds of those, you know, would fall off on the left hand side there, which there is no other place to go, and even couldn't reach them, and it was impossible for me to, and the short strips you would always find, is mostly what broke the conveyor, because they couldn't get around. The building set so close to the roller there that they couldn't get around the frame. [299]

(Testimony of Lindsay George Glenn.)

Redirect Examination

Q. (By Mr. Jennings) You referred in your testimony to the fact that Higday was around talking to you a number of times on May the 20th, the last day you worked? A. Yes, sir.

Q. During the period of time that you worked at the mill, had the foreman been in the habit of riding you about your work, coming around criticizing you?

A. No, sir, they hadn't been riding me. [300]

Q. (By Mr. Jennings) What I'm asking you is whether the times that Mr. Higday talked to you were increasing as time went on, or whether he'd always been riding you while you were working out there?

A. No, he hadn't always been riding me. No, he wasn't—

Q. Now—did the amount of his riding you or the amount of his criticism increase or decrease in the period shortly before you were fired?

A. For some unknown reason, he seemed to be pretty harsh that last day. I didn't know why.

Q. How do you mean, he seemed to be pretty harsh?

A. Well, he'd just speak pretty hard, you know, and I'd make a statement every time he'd say I said, "Don't put those things in there." And I said, "Herman, I'm not putting them in there."

[301]

Q. Was his attitude on that last day any different than it had been?

(Testimony of Lindsay George Glenn.)

A. That is what I was speaking of.

Q. Had your work been criticized at all at any prior time while you had been working out there? That is, before this period that we're discussing now? Had he criticized your work—had Pease criticized your work, or had Jake Williams?

A. Pease had bragged on my work at one time. I offered to let Mr. Hall come back to fall, and he says, "Glenn, you're falling is A-1," he says, "I'd rather have you than any man I've seen." He used to brag on me.

Q. Before this last period of time in which you say Higday was riding you or criticizing your work, had there been any criticism of your work?

Trial Examiner Ward: You can answer that yes or no.

A. I didn't know of any criticism except on the last go around there. It was worse that day than any other day. Just what I stated.

Q. Do you recall any statements that Pease made to this committee when you were discussing this wage scale about the Union? That is, you told Mr. Cheney when he was questioning you that you thought, as you understand it, that this wage scale he offered you was better than the Union and had no effect on the Union? [302]

A. That is what Mr. Pease was stating. We were talking about it. He says, "Boy," he says, "I've got a working agreement wrote out here that I want you to inspect it and see what you think about it."

(Testimony of Lindsay George Glenn.)

And he said, "You boys look at it and then go out and make a report to the other boys to see what you think, what they all think of it, and then report back to me later." And as we spoke he said, "Well, I told them I saw some of the boys"—we'd all been discussing seniority that evening. Even a sawyer would come out. He'd be apt to put him at a pick and shovel. And I said, "Some of them don't really care for that, Lionel," I says, "I've heard that very remark." "That is no more," he says, "I'm granting seniority on the job. If a man has got a day's seniority over the other man, it's his job to choose."

Q. During this discussion, did Lionel Pease say anything to the committee about the Union?

A. Oh, yes, during those times he said, "You know that I have granted seniority and a wage raise," he says, "I don't see what you want of a Union." I said, "Well, I guess we don't if you're going to grant seniority, Lionel, and a wage raise."

Q. Did Pease say anything more?

A. Well, Pease told me, as I said various times, but I won't swear to that very date, but he told me in person that he would not have a Union. He wouldn't recognize a Union, [303] wanted no part of them.

Recross Examination

Q. (By Mr. Cheney) Did you talk to Ben Cheney, or did Ben Cheney talk to you the last day of your working in the mill?

A. About my work? He did not.

(Testimony of Lindsay George Glenn.)

Q. No, I say, did he talk to you the last day of your work? Did he come up and talk to you?

A. I don't remember. He might have come up and spoke to me or said something.

Q. He might have talked to you the last day?

A. He could have, but I don't think so.

Q. Think real hard.

A. I don't think so at all. No, sir, I would say no.

Q. Did he say anything about those strips?

A. No, he didn't. He sure didn't say nothing to me about that.

Q. Did you see him there at the plant the last day?

A. I seen Cheney around there, around the plant first one place and another.

Q. And you never talked to him?

A. I never talked to him about no job, no, sir.

[304]

Q. No, about those strips? A. No, sir.

Q. Do you remember him coming up to you and saying, "Please don't throw those strips in there." Do you remember those words?

A. No, I don't. I don't, I do not.

JOHN LESLIE ALLAN,

a witness called by and on behalf of the National Labor Relations Board.

Direct Examination

Q. And where are you employed at the present time?

A. Yuba Manufacturing Company at Benicia, California.

Q. How old are you, Mr. Allan?

A. Thirty-three.

Q. What do you weigh? [305]

A. About 210.

Q. How tall are you? A. Six feet.

Q. What is your occupation, what has been your principal business or occupation?

A. Meaning from when?

Q. Well, all of your life. What has been your principal business? A. Lumber industry.

Q. How long have you been working in the lumber industry? A. Well, around twenty years.

Q. Did you ever work for the Cheney California Lumber Company? A. Yes.

Q. When did you go to work for them?

A. Well, offhand about the middle of April.

Q. 1943? A. Right.

Q. How did you happen to come to work out here?

A. My brother-in-law was working here, and I was discharged from the army—

Q. Kenneth Blair was working here?

(Testimony of Leslie Allan.)

A. I was discharged from the army 14th day of March, '43, and I'd been working in California the previous year, so I decided I might come up here and try the lumber industry [306] and my wife wrote him—wrote Kenneth Blair if I might get a job up here right away, and I got a return letter that I could.

Q. And you came out here then and went to work? A. That is right.

Q. Then when you came out here, who did you go out to see? A. Lionel Pease.

Q. And who put you to work?

A. Lionel Pease.

Q. What job were you put on?

A. Slasher saws, running the slasher saws.

Q. Now, at the time you went to work, did you have any conversation with Mr. Lionel Pease?

A. Very little. Nothing of interest.

Q. At the time you came to work, were you a member of the Union? A. Yes, sir.

Q. And did you have any conversation with Pease about that?

A. I asked Pease if the job was Unionized or not, and he said no, and I told him, I says, "Well, the reason for asking, I'm a Union member, and I wanted to know." But I says, "It won't interfere with my work."

Q. All right. Now how long did you continue to work on the slasher? A. Two days, I believe.

(Testimony of Leslie Allan.)

Q. And then where were you put?

A. Behind the edger.

Q. And what was your job?

A. Well, some call it falling, some call it grading, but it was taking care of the good lumber, straightening it on the chain.

Q. And you were working on the left of Lindsay Glenn, is that right? A. That is right.

Q. The two of you were working alongside of each other behind the edger?

A. That is right.

Q. Now, when you went to work on this strip catcher job, was there any hog conveyor installed?

A. Not in use, no.

Q. And what did you do with the strips when you first came to work?

A. Went in the conveyor.

Q. How did you have to dispose of them?

A. Well, the ones that I taken care of, just turned them around and throwed them back in the conveyor.

Q. Now, what was your job principally when you were a lumber spotter or grader there? What was your principal job?

A. Seeing that the lumber was back against, you might [308] call it the butt-boards that both saws could hit each end of it, and kept bad lumber from going through the saws.

Q. You had to pull off the bad lumber if it got past the strip catcher? A. That is right.

(Testimony of Leslie Allan.)

Q. Now, what length were these strips when they came by you there?

A. Approximately eight feet.

Q. Were there any short ones?

A. Some, yes.

Q. And how short would they be?

A. Well, they run from three to six feet.

Q. Now, how wide across is this chain that you were working on, these rollers, how wide across is that? A. The live rollers?

Q. Yes.

A. I would say three and a half or four feet.

Q. I mean that these strips run along on. They run along on the rollers, don't they?

A. I don't believe I understand you.

Q. I don't think you do, either. You were working in behind the edger? A. Yes.

Q. Now, are there rollers that carry the strips or boards past you over to the planer? [309]

A. Yes.

Q. And there is a table upon which those rollers run?

A. Yes, you're speaking of the live chain?

Q. Yes. Now how wide is that table upon which these rollers are or this live chain, as you call it?

A. I'd say seven feet.

Q. About seven feet wide? A. Yes.

Q. Now, when the short strips come out, what part of the table do they fall on?

A. They come out from the saws, they stop between the live rollers before they get to the chain

(Testimony of Leslie Allan.)

as a general rule, not in every case, but as a general rule they stop on the edger table.

Q. Now, if you wanted to get one of those short strips over there, how would you go about it?

A. Up on the table.

Q. Climb up on the table and get them?

A. That is right.

Q. Were you always able to climb up on the table and get the short strips?

A. Well, if the lumber wasn't coming through too fast, I could do that.

Q. If you couldn't get to them, what happened to them?

A. They fall off into the conveyor, come over the first [310] live chain into the conveyor.

Q. They'd drop in of their own accord?

A. That is right.

Q. You stated that when you first went to work there, you threw the strips into this conveyor?

A. Yes, sir.

Q. After you had been working there a while, was this hog installed? A. Yes, sir.

Q. As Mr. Waitts and Mr. Glenn described it?

A. Yes, sir.

Q. And what were you to do with the strips after the hog was installed, and did you receive any instructions about it?

A. I did to put all possible strips into the hog conveyor.

Q. Now, when you were working on Mr. Allan's

(Testimony of Leslie Allan.)

or Mr. Glenn's list, how would you go about tying a strip up into the hog conveyor? What would you have to do?

A. I threw it over his head.

Q. And did you do that very often?

A. Quite often.

Q. Did it cause any difficulty? A. Sir?

Q. Did it cause any difficulty?

A. Quite a bit. It would get tiresome. [311]

Q. And any other trouble?

A. Once in a while one of them would bounce off, and he'd have to dodge it. Other than that, that is about all.

Q. Now when this hog conveyor was first installed, did you have any conversation with Higday about what you were to do with the strips, the foreman?

A. Yes, he said put all possible into the conveyor—into the hog conveyor.

Q. And did you have any discussion with him about what you were to do with the strips, or did you tell him what you were going to do with them?

A. I told him that what I couldn't get on the hog conveyor, I would put in the main conveyor.

Q. What did he say to that?

A. He said put all possible into the hog.

Q. All right. Now did you continue to thereafter throw some in the hog conveyor and some on the conveyor underneath?

A. That is right.

Q. Did you have any further conversation with Higday after that?

(Testimony of Leslie Allan.)

A. Not until they boxed the conveyor up.

Q. What happened at that time? What do you mean, they boxed the conveyor up?

A. They taken boards and slowed the conveyor to my left, [312] and then up to where I couldn't—where the short ones, nor none of them could go in under.

Q. They boxed it over so that it would be impossible for strips to be thrown into the conveyor?

A. That is right.

Q. And likewise it would be impossible for them to drop in? A. That is right.

Q. Now, what happened after the conveyor was boxed up?

A. Well, I started to work the morning that they boxed it following the previous night, and the short ones come in there and stopped the lumber. It wouldn't let it go on down on the chain. I'd jump up there, and I did that for about forty-five minutes and it got monotonous, so I told Higday, "Only one of two things you can do. You can take that floor off to where those short ones go through, or else I have quit." And he says, "I'm damned sure not taking the floor off." And I says, "Well, take it and go to hell with it."

Q. What did you do then? A. I quit.

Q. Did you get a release? A. No.

Q. Did you stay around for a while and watch the operation? A. Yes, sir. [313]

(Testimony of Leslie Allan.)

Q. After you quit? A. Yes, sir.

Q. What happened?

A. They put two of the best men that they had behind there, that is the best men that knew how to handle lumber could handle more lumber to see if it was necessary to take the floor out or not.

Q. Who did they put behind there?

A. Norberg.

Q. Is that Harold Norberg?

A. Yes, sir, and if I'm not mistaken, Swanson, but I don't know his given name.

Q. Otto Johnson?

A. It was Norberg's brother-in-law.

Q. Yes. Now, did you watch Swanson and Norberg as they tried to do this job?

A. Yes, sir.

Q. What happened to Mr. Glenn?

A. They put Mr. Glenn on a different job, and I believe on the green chain.

Q. Did you watch Swanson and Norberg while they were doing the job? A. Yes, sir.

Q. How did they get along?

A. Not too hot. [314]

Q. What happened then?

A. The mill only run about—oh, an hour and fifteen minutes after I quit, and something went haywire some way and they shut down for the day.

Trial Examiner Ward: Did it go haywire on this conveyor operation or some place else in the mill?

(Testimony of Leslie Allan.)

The Witness: I wouldn't be positive, but I do believe the motor burned out. I believe that was right.

Trial Examiner Ward: Pardon the interruption.

Mr. Jennings: Certainly.

Q. (By Mr. Jennings) Now, did you came back the next day and get your release?

A. Yes, sir, I come back the next day after my release.

Q. And did you talk to Higday?

A. I was out under the shed. I walked out under the shed just watching them start operations, and Higday came to me and asked if I wanted to work, to take my job back. I told him under one condition I would take it back, and I said, "If I could throw these strips under the conveyor that it is impossible for me to get in the hog, I'll take it back. Otherwise, no soap."

Q. What did Higday say?

A. To take the job.

Q. Did you go back to work then?

A. That is right. [315]

Q. Did Higday say anything to you about throwing strips in the conveyor, or throwing them in the hog after you went back to work? A. No, sir.

Q. Did Higday or Pease ever tell you that you were to throw strips in the hog and not to throw any in the conveyor? A. No, sir.

Q. Did they speak to you at all?

(Testimony of Leslie Allan.)

A. No, sir.

Q. Say anything to you about it?

A. No, sir.

Q. Did you throw any strips on the conveyor during the time that you worked there?

A. I did.

Q. After you went back? A. I did.

Q. Did you do it when Higday was there?

A. I couldn't say because I didn't make it secret that I was throwing them under there, but I'm positive that he saw me.

Q. Did you have any more difficulty with the chain during this period of time that you were tying some strips in? A. No more than usual.

Q. Now you told me that when you came to work there you [316] informed Pease that you were a member of the Union? A. That is right.

Q. That is the United Brotherhood of Carpenters and Joiners, isn't that correct?

A. That is right.

Q. You were a member of that organization?

A. Yes, that is right.

Q. Now, you recall at some time after you came to work, you signed a new card for the Lumber and Sawmill Workers? A. That is right.

Q. Do you remember the date upon which you signed that card?

A. I wouldn't say positive, but I believe it was 27th of April.

(Testimony of Leslie Allan.)

Q. You believe it was the 27th of April?

A. Yes.

Mr. Jennings: Will you mark this card as Board's Exhibit 5 for identification, please?

(Thereupon the document above referred to was marked as Board's Exhibit No. 5 for identification.)

Q. (By Mr. Jennings) I show you Board's Exhibit 5 for identification and ask you if that is the card that you signed? A. That must be.

Q. Is that your signature on it? [317]

A. It must be.

Mr. Jennings: I'll offer the card in evidence as Board's Exhibit 5.

Trial Examiner Ward: It will be received.

(The document heretofore marked Board's Exhibit No. 5 for identification was received in evidence.)

(Testimony of Leslie Allan.)

BOARD'S EXHIBIT No. 5

Application for Membership

Lumber and Sawmill Workers

In the

United Brotherhood of Carpenters and Joiners
of America

Date 4/15/43

City—Greenville

State—Calif.

Name of Applicant—Leslie Allen

Date of Birth—12-26-09

Employed by—Cheney Lbr. Co.

L. U. No. 2647

Address—Greenville

I hereby make application to become a member of the United Brotherhood of Carpenters and Joiners of America. In doing so, I of my own free will and accord, hereby authorize the United Brotherhood of Carpenters and Joiners of America, or its representative, or officers to act for me as a collective bargaining agency in all matters pertaining to rate of wages, hours and other conditions of employment.

Signed J. LESLIE ALLEN

Q. (By Mr. Jennings) Was that approximately the date that you signed the card, April 15th, 1943?

A. What date?

Q. The card bears approximately the date you

(Testimony of Leslie Allan.)

signed it—the reason I ask is that you said you thought you signed it on the 27th, and that is dated the 15th.

A. Well, I must have been mistaken, then, in the date.

Q. You signed it sometime during April of '43, anyway? A. That is right.

Q. Now, after you went to work there, did you engage in any activity on behalf of the Union?

A. Only one time.

Q. When was that?

A. Well, I don't know what month it was.

Q. Well, do you remember—would you remember if I told you that the election was held out there on the 22nd of May? A. That is right.

Q. All right. Now fixing that date in your mind, when [318] did this activity that you engaged in take place?

A. Well, it was before that some few days.

Q. Well, what happened? What was going on at that time? A. You mean with the Union?

Q. Yes, that is right.

A. There were three different guys on the job, that the different ones handling the Union seemed to be afraid to approach, and they wanted me to go talk to them, and I did so.

Q. You talked to those three men about what?

A. About joining with the Union.

Q. Were they men who were not signed up in the Union? A. That is right.

(Testimony of Leslie Allan.)

Q. Did you succeed in signing any of them up?

A. One. The other two said no.

Q. Now, do you recall that on the 19th of May, just a few days before the consent election was held, Miss McElroy, the Board's Field Examiner, came out to the mill? A. That is right.

Q. And there was a conference with Mr. Pease and Mr. Wyatt in the Company's office?

A. I do.

Q. You recall that you were standing around at that time? You were with a number of the other men? A. Yes, sir. [319]

Q. Now, did you hear anything at that time with regard to the date of the election?

A. I believe she said at that time—said that it would be the second of May or the second of June, I think is when she set the date.

Q. How did you hear that?

A. She told—she came up and told the guys, you know, a crowd of us.

Q. Yes.

A. Said, "We'll have the election the second day of June."

Q. And what did she do then?

A. She went back to her car and sit down.

Q. Where was the car?

A. In front of the Company office.

Q. And what did you do?

A. Well, I didn't think that it was necessary to wait that long for a Union under the conditions, so I went over and talked to her.

(Testimony of Leslie Allan.)

Q. What did you say to her?

A. I asked her if there wasn't a possible chance to get the election to come off sooner than that date.

Q. And did you have a discussion with her about it at that time? A. Yes, sir.

Q. And what did you ask? [320]

A. I asked her, I said, "It seems like it was useless to wait that long," that we couldn't stay there the way things were going if we couldn't get a Union quicker than the second day of June.

Q. Did she thereafter go back into the office?

A. I wouldn't say where she went. She stepped out of the car pretty speedy like, and was out of sight for a few minutes.

Q. Now, did you thereafter hear that the election had been set for another date than the second of June? A. I did.

Q. What date was it set?

A. The 22nd, the following Saturday.

Q. The following Saturday? A. Yes.

Q. Now, calling your attention—by the way, this incident with respect to the consent election took place on May 19th, that is correct, isn't it? The date the consent election agreement was signed?

A. Yes, sir.

Q. Now, the following day was May the 20th. Now, you came to work on May the 20th?

A. That is right.

Q. And what job were you on at that time?

(Testimony of Leslie Allan.)

A. Lumber spotter behind the edger. [321]

Q. You were on your regular job?

A. Yes, sir.

Q. And did Mr. Higday say anything to you about your job on that day?

A. Well, he told me that they wanted to see me in the office.

Q. I'm talking to you about the 20th. That is the last day you worked. A. The 20th?

Q. Yes. A. No, sir.

Q. Did Mr. Higday talk to you at all?

A. No, sir.

Q. Had he been talking to you, or said anything to you in the period of a week or two weeks before that? Had he talked to you about your job, or given you any instructions?

A. I wouldn't say yes or no until—unless I could remember the day that I quit.

Q. Well, from the time that you quit up until the time that you were fired, did Higday talk to you about your job? A. No, sir.

Q. Did you notice Mr. Higday talking to Mr. Glenn on May 20th? A. Yes, sir.

Q. Could you hear what Higday said to Glenn?

[322]

A. No, sir.

Q. What was the matter? Why couldn't you hear?

A. I haven't any right ear, and he was on my right, and there was a lot of noise.

(Testimony of Leslie Allan.)

Q. There was a lot of noise from the machinery?

A. Yes, sir.

Q. Now do you know what—did Glenn tell you what Higday said? A. Yes, sir.

Q. What did he say?

A. He said to throw the strips in the hog and not in the conveyor.

Q. That he had told Glenn to do that?

A. That is right.

Q. Did Higday say anything to you at all?

A. Not at all.

Q. Was Glenn throwing strips in the conveyor?

A. I wouldn't say that he did, because I never saw him.

Q. Did you ever see him throw strips in the conveyor after the hog conveyor was installed?

A. Not after Higday got on him, no, and told him not to.

Q. Did you throw any strips in?

A. Yes, sir.

Q. Do you recall that on the 20th of May, that is the last day you worked, you and Glenn were discussing the [323] problem of your job?

A. Yes, sir.

Q. And what did you decide to do?

A. Well, we decided to talk to Mr. Cheney and see if we couldn't get it remedied some way, get him to see our side of the point as well as Lionel's.

Q. Were conditions any worse than they had been before that? A. Yes, sir.

(Testimony of Leslie Allan.)

Q. In what respect was it worse on this day than it had been before?

A. Well, we had had difficulty with the carrier—I suppose that is what you would call it—had broken down and the lumber was piled up behind us, and we didn't have sufficient room to work, and constantly Herman was coming over and raising the devil with Lindsay, with Mr. Glenn, about throwing those strips in there, about him throwing them into the conveyor.

Q. You decided then to talk to Mr. Cheney?

A. Yes, sir.

Q. And did you speak to Mr. Cheney?

A. I did.

Q. What did you say to Mr. Cheney?

A. I asked him if we could have a date to talk with him:

Q. What did he tell you? [324]

A. He said that he would see Mr. Pease and see if Mr. Pease had anything on his mind for the afternoon, and if he didn't he would let us know what time he could see us.

Q. Did Cheney come down to you later and tell you that he would talk to you? — A. Yes.

Q. And did he fix a date for a meeting?

A. Yes, sir.

Q. What time did he fix?

A. Seven o'clock.

Q. Seven o'clock at night?

A. That afternoon, yes, sir.

(Testimony of Leslie Allan.)

Q. Did you keep that appointment?

A. No, sir.

Q. What happened?

A. Well, Mr. Glenn decided it wouldn't be worth while to talk to him.

Q. And did you then go—did you continue working on the rest of the day? A. Yes, sir.

Q. Did you see Mr. Cheney after work then that evening? A. Yes, sir.

Q. And what did you say to him?

A. I told him that we wouldn't see him.

Q. You told him that you weren't going to keep the [325] appointment? A. Yes.

Q. Did Mr. Pease or Mr. Cheney speak to you about your job at any time on the 20th of May?

A. No, sir.

Q. Either one of them say anything to you about throwing strips into the conveyor?

A. Not at all.

Q. Did anything unusual happen on the 20th, that is, were you told you weren't going to work thereafter, or given any indication that you were through? A. No, sir.

Q. When you talked to Mr. Cheney after work that night, did he express any criticism of your work or tell you you were fired? A. No, sir.

Q. Did you come back to go to work the next day, the 21st? A. Yes, sir.

Q. What happened when you came back?

A. We stayed there until the whistle blowed, and

(Testimony of Leslie Allan.)

when the whistle blew we started to our place, and Higday told us that Pease wanted to see us in the office.

Q. Did you go to the office?

A. Started to, and the office wasn't open. [326]

Q. What did you do then?

A. We waited outside until Pease came.

Q. And he then told you that you were fired?

A. Well, not exactly.

Q. How did he express it?

A. Well, that is rather hard to remember, but anyhow it was leading to causing the conveyor to break down. He claimed because the strips were being throwed in. That was the general argument.

Q. And do you recall the incident that Mr. Glenn testified about when the men came out and gathered around you? A. Yes, sir.

Q. And were talking about your being fired?

A. Yes, sir.

Q. Now did you—after the men had gone back to work, did you have any discussion with Mr. Pease about your discharge and the reason for it?

A. Well, I don't believe that I mentioned anything more to Mr. Cheney or Mr. Pease than to tell him that I didn't believe we were being discharged for that purpose. It was due to Union activities. I believe that is all I said in regard to the job.

Q. Was anybody there except Pease when you made that statement?

(Testimony of Leslie Allan.)

A. There was quite a bunch there. There was four or [327] five, I'd say.

Q. Do you remember who else was there?

A. Three kids that quit was there. Three kids that quit was there.

Q. What did Pease say when you told him you thought you were fired for Union activities?

A. I don't believe he give me an answer.

Q. Now, did you receive a termination slip?

A. Yes, sir.

Q. Have you that with you? A. Yes, sir.

Q. May I see it? A. Yes, sir.

Mr. Jennings: I'll ask that this be marked Board's Exhibit 6 for identification.

(Thereupon the document above referred to was marked as Board's Exhibit No. 6 for identification.)

Q. (By Mr. Jennings) Showing you this paper which has been marked Board's Exhibit 6 for identification, is that the termination notice Mr. Pease gave you? A. Yes, sir.

Mr. Jennings: I offer that in evidence as Board's Exhibit 6.

Trial Examiner Ward: It will be received.

(The document heretofore marked Board's Exhibit No. 6 was received in evidence.) [328]

(Testimony of Leslie Allan.)

BOARD'S EXHIBIT No. 6

Deliver this copy to the worker at the time his services are terminated

Use This Form Only for Reporting Terminations of Service Involving Possible Disqualification

Social Security account number of worker—

441-05-7081

Name of worker—Leslie Allen

Dated of this notice—5/21/43

Last date individual worked—5/21/43

Date employer was informed of worker's termination of service if other than date entered in the preceding item—5/21/43

Employer's name and address must be typewritten or entered in ink

Cheney California Lumber Company

Box 143

Greenville, California

Do not ask the worker to sign this form

Instructions for the worker appear on the reverse

Termination Notice Concerning
Possible Disqualification

Cause of Termination of Service

Check item 1, 2, 3 or 4, or state the cause of separation under item 5. Present full explanation under item 6:

- 1 Left voluntarily
- 2 Discharged for misconduct connected with his work

(Testimony of Leslie Allan.)

3 Worker not able to work

4 Worker not available for work

5 Other cause

6 Explanation

I Certify that the information given on this form
is true and correct to the best of my knowledge and
belief.

By KENNETH PEASE

Signature of individual completing
this notice

California Department of Employment
Affiliated with Social Security Board

Q. (By Mr. Jennings) Did you have any discussion with Mr. Pease before he gave you that termination slip? A. Not that I remember.

Q. Did you quit voluntarily, as the slip indicates?

A. Well, I'd say no.

Q. Was it your desire to quit, or were you fired?

A. I was fired.

Q. Did you come around on the following day, May the 22nd, to vote in the election?

A. Yes, sir.

Q. And did you vote in the same fashion as the other men voted? A. No, sir.

Q. What was done with your ballot?

(Testimony of Leslie Allan.)

A. It was sealed in a double envelope and laid aside for later purpose.

Q. What purpose?

A. Well, I could hardly say.

Trial Examiner Ward: It was a challenged vote, was it?

The Witness: Yes.

Q. (By Mr. Jennings) Has that ballot been counted? Has your vote been counted?

A. No, sir.

Cross Examination [329]

Q. (By Mr. Cheney) You didn't work for the Company very long, did you?

A. I'd say four or five weeks.

Q. Four or five weeks. As a matter of fact—your—the record that I have indicates that you started work on the 15th of April, is that correct?

A. Something like that.

Q. You stated that before you started to work, you talked to Mr. Pease and you informed him that you had joined the Union?

A. No, that statement is not correct. I was a member of the Union before I came to California.

Q. When did you join the Union in Greenville?

A. Along in April.

Q. The card shows you joined the Union on the 15th day of April. Is that correct?

A. Bound to be so.

Q. And you started to work on the 15th day of

(Testimony of Leslie Allan.)

April. Now, you stated that you did talk to Mr. Pease and told him that you were a Union man before you started to work? A. That is right.

Q. And Lionel did hire you, did he not?

A. That is right.

Q. Even knowing that you were a Union man?

A. That is right. [330]

Q. How long did you work before you quit?

A. I can't answer that.

Q. Well, you worked altogether about five weeks at the plant? A. Do you mean—

Q. You said you quit because they boxed in the conveyor.

A. That is right. I understand, well I'd say maybe two weeks, but I wouldn't be sure about that.

Q. And you stated, did you not, that they boxed this conveyor in so strips could not be thrown in?

A. That is right.

Q. And you objected to this and told, in your own words, Higday to go to hell?

A. That is right.

Q. If they wouldn't take that floor out, you'd quit? A. That is right.

Q. And he refused to take the floor out?

A. Sir?

Q. He refused to take the floor out at that time?

A. That is right.

Q. So you quit? A. That is right.

Q. Did you get a release? A. No, sir.

(Testimony of Leslie Allan.)

Q. And then the next day, was it, that you went back to [331] work? A. That is right.

Q. And after that, and continuing up to the time that you were discharged, there was various discussion about those strips, where they should go?

A. Not to me, no.

Q. Not to you? A. No.

Q. In other words, you felt free to throw those into the conveyor? A. That is right.

Q. But you did know that Mr. Glenn was instructed not to throw them into the conveyor?

A. That is right.

Q. But you thought you had that privilege?

A. That was the understanding when I went back to work.

Q. That you could throw them in there?

A. That is right.

Q. You understood, did you not, that it was those strips that were causing, to a great extent, the conveyor to break?

A. Ththa was their argument.

Q. You were told that? A. Sir?

Q. You were told that that was what was causing it to [332] break down to the greatest extent?

A. That is right.

Q. You also stated that Higday, in your own words, that Higday was constantly raising hell with Glenn about the strips.

A. That is right.

(Testimony of Leslie Allan.)

Q. And yet you just continued to throw the strips down in there?

A. That is right, the ones that I couldn't get away, otherwise I would put in the conveyor.

Q. The conveyor broke several times that day, did it not?

Mr. Jennings: What day do you refer to?

Mr. Cheney: The last day of his work.

A. Well, I'll say this. It didn't break very much, very many times.

Q. But it did break?

A. I wouldn't say that it broke one time even.

Q. Mr. Glenn said it broke several times. That is why I asked you that.

A. Glenn's memory could be better than mine.

Q. Do you recall Mr. Cheney coming to you and Glenn and talking to you about the strips the last day of the work? A. I do not.

Q. Did you see him? A. I saw him, yes.

[333]

Q. Did you see him up there on the platform behind the edger where you were standing? Did he come over to you for any reason at all?

A. Not to my recollection, no.

Q. You never saw?

A. No—oh, yes, I saw him on the platform, sure, but he didn't come up to me.

Q. Where you were working there?

A. Not to my recollection, no.

Q. Now, Lionel never told you when you went

(Testimony of Leslie Allan.)

to work that you could not join a union, did he? As a matter of fact, you already belonged to the Union, I guess? A. That is right.

Q. And he hired you? A. Yes.

Q. Did Lionel ever threaten to fire you because you belonged to the Union? A. No.

Q. He never criticized you for belonging to the Union? A. No. [334]

Q. (By Mr. Cheney) You stated that you did go to Mr. [335] Cheney and ask to meet with him that night after work? A. That is right.

Q. And did Mr. Cheney agree to meet you and talk with you? A. Yes.

Q. How was his attitude then?

A. Well, he didn't—his attitude seemed as though he didn't care a lot about talking to us because he had to go back and see Mr. Pease, see if Mr. Pease could spare the time for him to do so.

Q. I see. But he did agree to talk with you that evening? A. That is right.

Q. And you went to him later and you cancelled the date? A. That is right.

Q. So he never did talk with you? A. No.

Q. Did Lionel ever tell you—did Mr. Pease ever tell you that it was against the Company policy to belong to the Union? A. He did not.

Q. Did he ever mention the Company's name in regard to the Union? A. Not to me, no.

Q. Did Lionel tell you that he fired you for Union activity? [336] A. He did not.

(Testimony of Leslie Allan.)

Q. He told you, did he not, that he fired you because of the strips in the conveyor?

A. He could have made that remark, but I can't recall hearing it.

Q. But did you not say that the remark he made, the reason given for firing you, had to do with the strips in the conveyor?

A. Well, I make this statement again—that I don't remember him ever saying that I was fired.

Q. He didn't tell you that you were fired?

A. That is right.

Q. Who fired you?

A. Mr. Cheney is the only man that I heard make the remark that we were fired, and he didn't say that we were fired. He says, "We can't use you any longer," and he was talking towards Mr. Glenn when he made that remark.

Trial Examiner Ward: Was that on the 21st?

The Witness: The 21st of May, yes.

Q. (By Mr. Cheney) But you understood that it had something to do with the strips and the conveyors? A. That was his argument.

Q. During the time you worked there and belonged to the Union, you were given the privilege of overtime at the mill, according to the record? Do you feel that you were [337] discriminated against in any other way, in any way by the Company or by Mr. Pease while you were working there?

A. Well, not up until the date of our release.

Q. Well, you mean you were discharged? But

(Testimony of Leslie Allan.)

while you were working there, you were not discriminated against. You were given overtime and any other privileges that any other man had there?

A. I wouldn't say that I was, no.

Q. You wouldn't say that you were discriminated against? A. That is right.

Redirect Examination

Q. (By Mr. Jennings) Before you came out here from Oklahoma to work for the Cheney California Lumber Company, Mr. Allan, had you a promise of a job out here? A. Yes, sir.

Q. And before you wrote out here and got the promise of the job, did you let the Company know that you were a member of the Union? When you wrote out here, did you say that you were a Union member? A. No, sir, they never knew it.

Q. Not until you got out here and talked to Mr. Pease? A. That is right. [338]

HAROLD HALL WILLIAMS,

a witness called by and on behalf of the National Labor Relations Board.

Direct Examination

Q. (By Mr. Jennings) What is your full name, please? A. Harold Hall Williams.

Q. What is your business?

(Testimony of Harold Hall Williams.)

A. International Representative of the United Brotherhood of Carpenters and Joiners of America, American Federation of Labor.

Q. How long have you held that job?

A. Approximately two years.

Q. What territory do you cover?

A. California, Nevada, and portions of Oregon.

Q. Do you recall on May the 19th, 1943, that you were up in Greenville in connection with a consent election at the Cheney Lumber Company?

A. I do.

Q. And did you go out to the mill at that time?

[339]

A. I did.

Q. And converse with representatives of the Company and representatives of the National Labor Relations Board? A. I did.

Q. That was Miss McElroy, and I think Mr. Pease represented the Company?

A. I couldn't identify Mr. Pease. I remember Mr. Cheney being in the office for a time, and some other gentleman.

Q. And an agreement for a consent election was entered into at that time? A. That is correct.

Q. Now, do you recall a discussion as to the date of the election? A. Not very clearly.

Q. Was there any problem as to the date of the election?

A. Yes, Miss McElroy had it in her mind to set the election off to a date more distant than we be-

(Testimony of Harold Hall Williams.)

lieved necessary, and I remonstrated with her about that, tried to get a sooner election.

Q. Did you succeed in changing the date?

A. Yes, eventually.

Q. Now can you tell me just how this change in the date transpired, what happened?

A. We were a little bit fearful of a strike amongst the employees if the date was put off too far, when they felt [340] that they were entitled to their representation, their rights of bargaining. On leaving the Company's office, quite a number of the employees, I believe practically all of them that were at work that day, or down around the plant, were grouped at a ramp leading down from the sawmill to the ground.

Q. The date for the election had been determined at that time?

A. Not at that time, not definitely, although it seemed it was to be about ten days or so before the election would be held.

Q. Yes?

A. I walked over to the group and, as I recall, Miss McElroy also walked over with me and talked to them for a few minutes, and asked the boys to stay on the job and keep the thing going until such time as we could have an election. They were quite firm in their position that they wanted an election very soon. Miss McElroy asked a couple of questions, and then she left and walked over to her car. As I recall, I stayed and talked with the boys for

(Testimony of Harold Hall Williams.)

a few minutes longer, and then one of the boys, I believe Mr. Allan, walked over to—

Q. The man sitting here, Leslie Allan?

A. I believe so—walked over to Miss McElroy's car and talked with her for a few minutes. What they talked about, [341] I don't know.

Q. Was anybody else standing there with Mr. Allan when he was talking to Miss McElroy?

A. I don't recall. I just remember him leaving and going over to talk to her.

Q. Yes.

A. I stayed and talked with the boys just a few minutes longer down there, and when he finished his conversation, then I walked over to her car, and we left and came into town. She told me she would attempt then to make the election sooner, I believe, on the 22nd.

Q. During the period of time that you were standing there, did you observe any representative of the Company in the vicinity of these three men?

A. One that was pointed out to me as a representative of the Company.

Q. How did that transpire?

A. While I was talking to the boys, we had been grouped quite closely, and one of the boys standing next to me spoke to me in a low voice and said, "There is one of the bosses over there watching us." I turned around and there was a man standing —oh, probably fifty feet from us, watching us.

Q. Who was he watching?

(Testimony of Harold Hall Williams.)

A. Watching, I imagine, both groups. He was in sight [342] of both groups, both Miss McElroy, and Mr. Allan, and myself and the other men. At the time I turned around, he was looking at our group. [343]

ROBERT EARL PETTIE [350]

a witness called by and on behalf of the Respondent.

Direct Examination

Q. (By Mr. Cheney) And where are you employed?

A. Cheney California Lumber Company.

Q. When did you first go to work for the Cheney California Lumber Company?

A. February 18th, '42.

Q. And you worked steady for the Cheney California Lumber Company since that date?

A. That is right.

Q. What is your position?

A. Planerman.

Q. Would you tell us where the planer is situated in the mill in regard to the position of the edger?

A. Well—

Q. How many feet away?

A. Well, do you mean—

Q. From the edger.

A. Do you mean is it sideways or straight ahead? [351]

(Testimony of Robert Earl Pettie.)

Q. Well, sideways. The closest position, how many feet is it away?

A. Approximately fifteen feet.

Q. Do you spend most of your time around the planer? A. That is right.

Q. Is it your job to see that the material goes through the planer right? A. Yes, it is.

Q. That it enters the planer and then is planed and the planer is running in a satisfactory condition, is that it? A. Yes.

Q. Do you know Mr. Glenn and Mr. Allan?

A. Yes, I know them. That is, I met them on the job and worked with the men.

Q. Where were they working on or about the 21st day of April, 1943?

A. Well, I believe they was working behind the edger.

Q. And meaning behind the edger, they were the strip catchers? A. Yes, that is right.

Q. While they were working behind the edger, and during that period of time, did the conveyor chain break, the large conveyor under the edges, refuse conveyor, did that ever break?

A. Well, they was working behind the edger.

[352]

Q. Yes. A. Yes, it did.

Q. And were you in a position to know what was causing that chain to break?

A. Well, yes, I guess I was. Herman Higday was the foreman at that time. He told the two men

(Testimony of Robert Earl Pettie.)

not to throw edgings into the conveyor. He also came over and told me not to throw them in.

Q. And were edgings or strips thrown in the conveyor after the men were warned not to do it?

A. Well, as far as that goes, I couldn't say. The man that was working out on the end of the conveyor could probably tell you that.

Q. What do you mean, out on the end of the conveyor?

A. Well, when I first went to work down there, I went in behind the edger and worked there. I worked with Mr. Glenn, and at that time we were allowed to throw the edgings in the conveyor. Mr. LaFluer was coming down to overhaul the planer or set in this other planer, and Mr. Allan was hired then, and he was working then with Glenn, and I went over behind the planer to take care of that part of it there while waiting for Mr. LaFluer to arrive.

Q. You speak of the man being out there on the end of the conveyor? Did they put him out there on the end of the conveyor when they were allowed to throw strips into the [353] conveyor?

A. Yes, that is right.

Q. What was his purpose out there at the end of the conveyor?

A. Well, these edgings would go down this one conveyor, and while waiting, it was higher—this one conveyor is higher than the big conveyor that runs down to the burner, and these edgings would fall

(Testimony of Robert Earl Pettie.)

over the end of this one, this conveyor, and lie there until the bucket would come from the conveyor, run out to the burner and carry it out, and if there wasn't a man there to throw them down, a bucket could come down on this conveyor underneath the planer that runs through there and hang up onto it and break the chain.

Q. Now, it was the practice of the mill, was it, that when the men behind the edger were allowed to throw those into the conveyor, to also have a man out there to watch these strips?

A. That is right.

Q. After the hog was installed, while the hog was in operation, or when the men were told not to do it, not to throw those strips in there, then did the Company keep a man out there on the end?

A. No, there was no man there. The men behind the edger were not supposed to throw them in.

Q. And then the strips then being thrown in when there [354] wasn't anybody out there, tended to break the chain?

A. That is right. That is what they said would break the conveyor chain.

Q. Mr. Pettie, did you belong to the Union when you came to work for the Cheney California Lumber Company?

A. That is right. I belonged to one in Washington.

Q. I see. And you belonged to the Union when you came to work there? A. Yes.

(Testimony of Robert Earl Pettie.)

Q. Did you display a Union button?

A. That is right, I wore one right on the job down there.

Q. Did anyone ever criticize you for the wearing of that button?

A. No, there was no one that criticized it, but there was one man, he was a sawyer, he sawed there at the *same Mr.* Howell did. I can't think of his name. Maybe someone in the courtroom could remind me of his name. Anyway, he asked me if that was a Union button, and looked at it, and he discussed the Union with me, and it was the only time —he was the only man.

Q. You were never told to take the button off?

A. No, sir.

Q. And were you ever told by Mr. Cheney or the Company that you would have to drop your affiliation with the Union, or that you couldn't join the Union? [355] A. No, sir.

Mr. Cheney: I believe that is all.

Cross Examination

Q. (By Mr. Jennings) What is your job at the present time, Mr. Pettie? A. Planerman.

Q. Working as planerman all the time?

A. Yes, that is, I carry out a few orders for Mr. LaFluer.

Q. You carry orders out to the men?

A. What do you mean by that?

Q. Well, do you take orders from Mr. LaFluer and bring them out to the men? A. Yes.

(Testimony of Robert Earl Pettie.)

Q. And tell them what to do? A. Yes.

Q. Are you given any title, any consideration in addition to that that the other men out there have? That is, are you considered as a working foreman?

A. Working foreman?

Q. Yes.

A. Well, yes, I have work to do there.

Q. But you also do some supervisory work?

A. Well, by that, if a new man comes and Mr. LaFluer tells me the job he's supposed to go on, I show the man [356] his job. I have no right to hire or fire anyone.

Q. You just tell them how to do their work?

A. Show them the job and tell them, that is all.

Q. What Union did you belong to when you came down here? A. A.F.L.

Q. Did you sign a card in the A.F.L. Union at Greenville? A. I signed the Union card.

Q. Down here at Greenville? A. Yes.

Q. Do you still belong to the Union?

A. No, I don't. I got a withdrawal card from the Union.

Q. What happened when the hog conveyor was down after it was installed? What was done with the edging?

A. Will you repeat that please?

Q. What happened—what did you do with the edging when the hog conveyor was down, wasn't operating?

A. When the hog conveyor wasn't operating?

(Testimony of Robert Earl Pettie.)

Q. Yes.

A. They were then allowed to be thrown into the other conveyor. A man was placed at the end each time to watch them.

Q. Was that true in 1943?

A. That is when I believe it was, yes.

Q. I mean this year, within the last few months since Glenn and Allan were fired? [357]

A. Well, no, then they were throwed on the floor, piled up, if that is what you mean.

Q. Since Glenn and Allan were fired, has the hog conveyor been broken down sometimes so that it couldn't be used? A. The hog conveyor?

Q. Yes. A. Yes.

Q. And what was done with the edgings when the hog conveyor was down, or do you know?

A. Oh, this here chain now, they have been throwed in and going right out to the burner.

Q. And there has been no man there watching it?

A. Not on this chain, no. It's a different chain, a different pipe chain.

Mr. Jennings: That is all.

Redirect Examination

Q. (By Mr. Cheney) I might bring that point out. Would you explain to the Court what you mean by different pipe chain, or I might put it this way: Was the old chain removed from the building and a new chain put in?

(Testimony of Robert Earl Pettie.)

A. Yes, it was. This new chain is a regular sawdust chain. Each length is a bucket. It has no bucket. By bucket, I mean a raised piece of iron on top of the chain. The chain is perfectly smooth. The sawdust falls between the lengths and rides out that way. [358]

Q. It's safe then to put the edgings, or strips, as they call them here, into that conveyor now?

A. Into this conveyor, this type chain, yes.

Q. Without the danger of breaking it?

A. Yes.

Mr. Cheney: That is all.

Recross Examination

Q. (By Mr. Jennings) Do you remember about how long after Glenn and Allan were fired, that the new chain was put in? They were fired on May the 21st.

A. No, I don't remember when that new chain was put in.

Trial Examiner Ward: Does the Company have any record on that?

Mr. B. B. Cheney: A little over a month later, last June, we came down here on June 13th and were down here about ten days installing the new chain after Mr. La Fluer came.

Trial Examiner Ward: The record will show that the record was made by the President of the respondent Company.

STANLEY A. MANNING,

a witness called by and on behalf of the Respondent.

[359]

Direct Examination

Q. What is your position in the Cheney California Lumber Company? A. I'm a sawyer.

Q. You're a sawyer? A. Yes.

Q. Now, you're sawing on which of the three rigs?

A. I'm sawing on the mill closest to the edger.

Q. The one closest to the edger? A. Yes.

Q. What is that called?

A. Number One mill.

Q. Number One mill? A. Yes.

Q. Is your mill situated over the top of this refuse conveyor that is in question?

A. It runs right square under the saw. [360]

Q. The sawdust from your head saw is taken out to the burner by this same refuse conveyor?

A. Yes.

Q. Would you say whether or not the conveyor is open right directly under your saw?

A. It's open under the whole mill part.

Q. Under the whole mill part? A. Yes.

Q. Were you working at the Cheney California Lumber Company on or about the 21st day of April, 1943? A. Yes.

Q. Was that the time—

Trial Examiner Ward: Off the record.

(Discussion off the record.)

Trial Examiner Ward: On the record.

(Testimony of Stanley A. Manning.)

Q. (By Mr. Cheney) This is in May?

A. Yes, I started to work there in April, about the middle of April, and worked clear on to now. I'm still working there.

Mr. Jennings: In order to clarify the record, I think there was some question about whether Mr. Pettie was working there.

Mr. Cheney: Mr. Pettie was working—our records, time records show that Mr. Pettie was working.

Mr. Jennings: I'll stipulate with you that he was [361] working on May 21st and May 22nd, because he voted in the election.

Trial Examiner Ward: And the testimony he gave for April 21st was intended for May 21st.

Mr. Cheney: Yes, so stipulated.

Q. (By Mr. Cheney) Were Mr. Allan and Mr. Glenn working behind the edger at that time?

A. Yes.

Q. Can you state as to what experience you had with the edgings, or "strips" as they're called, that were put in the conveyor and travelled through the conveyor?

A. Yes, the edge of the feed rack of my mill runs the carriage back and forth. It was right over the conveyor and these edgings; long edgings come in there, and they come right up through the feed rack on my mill, and I'd hold onto the lever until somebody would chop them out or pull them out, or stop the chain and get rid of them, because

(Testimony of Stanley A. Manning.)

that would make my carriage run away, which did happen afterwards, and I knew that Glenn and his partner had orders not to throw them in there at that time, and that day I walked around there, and Mr. Glenn was right in the act of throwing an edging in the conveyor at that time, and I asked him if he thought that was the right thing to do, when he had orders not to do it, and he just practically the same as told me that I wasn't making out his check, not in so many [362] words, but he meant the same thing, and the edgings in the feed rack happened a good many times. It wasn't only once. It was a good many times. And finally one got in there crossways and tore the whole mill to pieces, took days to fix it up. If I'd have been leaning over that thing, it would have taken me right into the saw.

Q. That was very dangerous, was it?

A. Very dangerous to work there, yes. In fact, I asked for a resignation there one day. [363]

Redirect Examination

Q. (By Mr. Cheney) You said that your carriage—that those strips caught in it, in the feed board of your carriage at some time, some three weeks after these men were discharged?

A. Somewheres around that.

Q. Did they ever catch in your feed rack while these men were working in those places?

A. Yes. That is why I went and told them about

(Testimony of Stanley A. Manning.)

throwing them in. On several occasions they'd get in there and we'd have to take an ax, I'd stand there and hold the handle so the carriage would stay still and my helper would take an ax and chop them in two.

JESSE W. La FLUER

a witness called by and on behalf of the Respondent.

Direct Examination [370]

Q. And when did you first start employment with the Cheney California Lumber Company?

A. The first work I did here was about the 4th of April.

Q. About the 4th of April, 1943?

A. 1943, yes.

Q. What was the work that you did at that time?

A. I came down to overhaul their planers. They were having trouble with it, and when I got here, why, I found that I had to send and get another machine so I was here practically a whole month.

Q. The month of April?

A. The month of April, yes.

Q. Yes.

A. So I had to wait until the new machine came and put that in. So I worked about all the month of April at that time.

Q. Did you have anything to do with installing the hog?

(Testimony of Jesse W. La Fluer.)

A. Yes, sir. I installed the hog during that same amount of time.

Q. During the same month?

A. Yes, sir.

Q. April of 1943?

A. April, 1943; yes, sir. [371]

Q. Were you at the mill at the same time that Mr. Allan and Mr. Glenn were working behind the edger? A. Yes, sir.

Q. Was the mill in operation?

A. Yes.

Q. At that time?

A. Yes, sir; at that time.

Q. You made the statement that you had—you were in charge of installing the hog, and did you put the hog in operation? A. Yes, sir.

Q. While these two men were working behind the edger? A. Yes, sir.

Q. Did Mr. Allan or Mr. Glenn, were they instructed at that time as to where they should put the edgings or strips?

A. Well, I know they were instructed not to put them into the conveyor.

Q. What were they doing—what were they supposed to do with them at that time?

A. Well, when I got the hog ready to run I was very anxious to get them all through there because I wanted to see if it would handle the work.

Q. Yes.

A. And I was very anxious that they would go

(Testimony of Jesse W. La Fluer.)
through and that is where they were supposed to put them. [372]

Q. Did they put them in there?

A. No, not all of them.

Q. Where did they put those that didn't go in there?

A. Well, they put most of them into the conveyor, the refuse conveyor running through the mill.

Q. The hog was in condition to run at that time?

A. Absolutely.

Q. And running? A. Absolutely.

Q. Can you state whether or not the placing of those strips in the conveyor caused the conveyor to break?

A. I surely would say that is what caused it to break; from past experience I know it would.

Q. And to the best of your knowledge at that time they were instructed to put them into the hog and not in the conveyor? A. Yes, sir.

Q. And you saw them, did you, with your own eyes put them in the conveyor?

A. Yes, sir; I stood right up over the trim saws and watched it go on.

Q. What is your position now with the Cheney California Lumber Company? A. Manager.

Q. You are the manager?

A. General manager of the Cheney California Lumber Company. [373]

Q. When did you become manager?

A. It would—I took the job over about the 14th

(Testimony of Jesse W. La Fluer.)

or 15th of June, 1943. If I recall I left at—we left Washington about the 9th of June. [374]

Q. (By Mr. Cheney) What position did you have with the Cheney California Lumber Company during the month of April when you were here installing the planer and hog?

A. Well, so to speak the language, I'll say I was a trouble shooter.

Q. A trouble shooter? A. Yes.

Q. For the machinery?

A. For the machinery. I came down here because they were having trouble and I was sent down here to install that planer or whatever should be done to put it right.

Q. Yes. And did you have any right to hire men? A. No, sir.

Q. Any right to fire men? A. No, sir.

Trial Examiner Ward: Or to supervise them?

The Witness: Beg pardon?

Trial Examiner Ward: You could supervise men working with you?

The Witness: Just the men that I asked for to be working with me?

Trial Examiner Ward: What title did you have before you came down here?

The Witness: Before I came down here?

Trial Examiner Ward: Yes. [375]

The Witness: I was working for the Cheney Lumber Company in Washington, going from one

(Testimony of Jesse W. La Fluer.)

mill to another and repairing and doing necessary repair work.

Trial Examiner Ward: Sort of a master mechanic?

The Witness: Yes, sir.

Trial Examiner Ward: That satisfies the Examiner.

Q. (By Mr. Cheney) Your position, as I understand it now, is the position of manager?

A. Yes, sir.

Q. For the Cheney California Lumber Company? A. Yes, sir.

Q. You have the right to fire men?

A. Yes, sir.

Q. And you show them, do you, as to what work, place them about the mill and direct their activities?

A. Yes, sir; that is part of my business.

Q. I want you to tell the Examiner, Mr. La Fluer, whether or not you ever—had ever been discriminated against or had ever discriminated between Union and non-Union men in the type of work and the placement of them in the mill and the number of hours they are allowed to work and so forth? A. No, sir; I have not.

Q. Have you ever told any of the men, or made any remarks to the men about Union activities?

A. Concerning unions, no, sir; other than the men have [376] talked to me. Some of them had talked to me and I said it was immaterial to me what union they had. The only thing I wanted was to

(Testimony of Jesse W. La Fluer.)

have the one that they wanted. That is the only thing I ever said about the union to any of the men.

Q. Mr. La Fluer, have you had any experience in the past in handling large numbers of men and boys? A. Since 1913, about 31 years.

Q. You have *have* handled men during that length of time?

A. Yes, sir. Anywhere from 10 men to 250.

Q. Yes. And would you say that the men employed by Cheney California Lumber Company now are the average type of lumber workers?

A. Yes, sir, I would. I think a lot of every man I got there. [377]

WILLIAM H. HAWSON,

a witness called by and on behalf of the Respondent.

Direct Examination

Q. And how long have you been employed by the Cheney California Lumber Company?

A. Well, I have been there ever since the mill started in May of 1941.

Q. Are you the oldest employee there?

A. I am.

Q. What is your position at the present time?

A. Filer.

Q. Filer? [380] A. Yes, sir.

Q. What was your position—during May of 1943, this year, what was your position?

(Testimony of William H. Hawson.)

A. 1943, I was grader.

Q. Would you explain grading; what did you grade? A. Two by fours, eight feet.

Q. How far were you, in grading the two-by fours, how far did you stand from this refuse conveyor?

A. Well, I stood right with my back to it.

Q. And how far would that be?

A. That would be about 20 feet or 25 feet, that is, from the back end.

Q. Were you aware of the conveyor trouble that was going on at that time? A. I was.

Q. Did you at any time see strips or edgings caught in the conveyor or during that time?

A. Well, I didn't particularly see them. I seen when they'd catch on the back end and hang the conveyor up; I'd see them, pry them out of the back end of the conveyor.

Q. That is what I mean. You saw edgings in the conveyor? A. Yes.

Q. And how did these affect the conveyor, Mr. Hawson?

A. Well, they'd go down over and then they'd come back on the return chain and hang up on the back end and catch the [381] bucket and broke the conveyor; liable to break anywhere.

Q. It has been testified here that when the men were instructed to place those edgings into the conveyor, edgings or strips, as they are called here, in the conveyor that a man was placed at the far end

(Testimony of William H. Hawson.)

of the conveyor to prevent them from tangling up with the conveyor. Now, at the times that a man was placed out there did you at that time ever see any edgings come back through?

A. Well, I couldn't say as to that because I didn't know for sure whether there was a man out there or not, all the time, or just part of the time because I would be two or three hundred feet from where I worked.

Q. Could you say whether or not the edgings or strips had any effect on breaking the conveyor?

A. It did have, yes.

Q. Did you ever help repair this conveyor?

A. Yes, several times.

Q. Did you ever find edgings or strips that were caught in it when you repaired it?

A. There was edgings come back through on the back end and they'd catch the bucket as they come back and hang the back end and break the conveyor.

Q. Were Mr. Allan or Mr. Glenn working behind the edger at that time? A. They were. [382]

Q. Did you state whether or not Mr. Allan and Mr. Glenn had been instructed not to throw strips into this large conveyor?

A. Well, I could not; because I didn't overhear any of the foremen tell them not to.

Q. What was the understanding there as to where the strips were to be placed?

A. They were supposed to be thrown into the hog conveyor as long as the hog conveyor was in work-

(Testimony of William H. Hawson.)
ing order. What I mean, they were supposed to be put in the hog conveyor that goes upstairs.

Q. If they weren't thrown into the hog conveyor, or when the hog conveyor was down, then where were they supposed to be put?

A. In the other conveyor, or thrown off to the side.

Q. When they were placed in the other conveyor was there a man usually—was there a man placed out on the end to keep them straight then?

A. I think there was, but I wouldn't say for sure.

Q. Did you at any time see Glenn or Allan throw strips into the conveyor?

A. I saw them throw them in there but I didn't know whether they were instructed to or not.

Q. In other words, your job as I understand it, was a grader? [383]

A. Yes. My job was a grader.

Q. And you had nothing to do with that part of it?

A. I had nothing to do with that part of it, no.

Q. How long have you known Mr. Ben Cheney, Mr. Hawson?

A. Well, I should say about 15 or 16 years, maybe longer.

Q. What has been your relationship with Mr. Cheney in regard to the handling of men?

A. Handling of men—excuse me. What was that question again?

(Testimony of William H. Hawson.)

Q. Of handling and dealing with men?

A. I have found him O.K. in every way.

Q. Has he been fair in his judgment and in his handling of men? A. Yes, sir.

Q. Has Mr. Cheney ever approached you, or made any remarks to you of any kind whatsoever regarding union affiliations? A. No, sir.

Q. Have you ever belonged to a union?

A. Not for several years.

Q. You didn't sign the union card down here?

A. Which one do you mean?

Q. That is, did you sign the union card—have you signed a union card while working for the Cheney California Lumber Company? [384]

A. Not outside of they circulated one union card there and I signed that.

Q. You signed a union card? A. Yes.

Q. But do you belong to the union now?

A. No.

Mr. Cheney: I believe that is all.

Cross Examination

Q. (By Mr. Jennings) When did you sign a union card, Mr. Hawson?

A. Well, it must have been in June.

Q. What union? A. CIO.

Q. Or you didn't sign with the AFL?

A. No.

Q. Then at the time of the election you were not affiliated with any union? A. No.

IVAN L. WILSON, [385]

a witness called by and on behalf of the Respondent.

Direct Examination

Q. Were you working for the Cheney California Lumber Company during April and May of this year? A. Yes, sir.

Q. When were you first employed by the Cheney California Lumber Company?

A. April 29, 1942.

Q. 1942? A. Yes, sir.

Q. And you worked continuously for them since that date?

A. Except for the lay-off in the winter.

Q. Except for the winter lay-off?

A. Yes.

Q. What is your position with the Cheney California Lumber Company? [386] A. Sawyer.

Q. And you are sawing in which mill?

A. No. 1.

Q. That is the large mill?

A. That is right.

Q. You heard Mr. Manning's testimony that he was sawing in No. 1 mill, but that is counting from the other end; I guess, isn't it?

A. That is right. His mill is No. 3.

Q. Is it customary that the large mill be called No. 1 and the next largest No. 2 and the smallest No. 3? A. Yes.

Q. And then Mr. Manning would be sawing in No. 3 mill according to the way you count?

(Testimony of Ivan L. Wilson.)

A. Yes, sir.

Q. Would you describe the relation of your mill to the conveyor, that is, are you on the farthest end, you might say, of the conveyor?

A. That is right.

Q. Did this conveyor break down at any time during the time that you were sawing there in April and May? A. Yes, sir.

Q. Did you ever have occasion to inspect the conveyor or help fix it when it was broken?

A. Well, I helped fix it every time it was broken.

[387]

Q. Would you state what was the cause of this conveyor breaking?

A. No, I don't know for sure.

Q. Did you ever find edgings or strips caught in it when it was broken?

A. Well, I wouldn't say for sure, no.

Q. But you know that it was broken at times?

A. All I know is—is that it was broken; yes.

Q. Have you ever worked with Mr. Glenn around the mill?

A. I think he turned down for me at one time.

Q. Could you state whether or not his work was of a satisfactory nature to you as a sawyer?

A. Well, that sort of job, he was pretty light for it.

Q. He didn't handle the job correctly, is that it?

A. Well, no; not as good as a heavier man would.

(Testimony of Ivan L. Wilson.)

Q. Did you sign the union card at the mill?

A. Yes, sir.

Q. Are you a member of the union now?

A. No, sir.

Q. What card did you sign? A. CIO.

Q. CIO? A. Yes.

Q. When did you sign that card?

A. I don't remember just when it was. [388]

Q. I mean, was it this year?

Trial Examiner Ward: What is the materiality of that?

Mr. Jennings: It was after the election, wasn't it?

The Witness: That is right.

Q. (By Mr. Cheney) Did you ever sign an AFL card? A. Yes, sir.

Q. And when did you sign that card?

A. I don't recall.

Q. This year?

A. That was before the election?

Q. Before the election. A. Yes.

Q. Was it known to the management of the Cheney California Lumber Company that you were a union man? A. I'm not a union man.

Q. That you were at that time when you signed the card?

A. Well, it was just—it wasn't joining the union, it was an application card, I guess that is what it would be. But the company knew about it, yes.

Q. As a sawyer in the mill and as a workman

(Testimony of Ivan L. Wilson.)

there did you ever notice any change in attitude in the company towards you? A. No, sir.

Q. Did Mr. Pease ever tell you that you could not join a union? [389] A. He never did.

Q. Did Mr. Ben Cheney ever tell you that you could not join a union? A. No, sir.

Q. Your relationship was the same whether you had signed a card or whether you had not; is that right? A. That is right.

Mr. Cheney: I believe that is all.

Cross Examination

Q. (By Mr. Jennings) You said that the company knew that you signed up with the union?

A. That is right.

Q. How did the company find that out?

A. I told them.

Q. Whom did you tell?

A. Mr. Lionel Pease.

Q. What did he say? A. Nothing.

Q. Didn't he say something to you about it?

A. No, he didn't say anything. [390]

ERNEST J. DAVIS

a witness called by and on behalf of the Respondent.

Direct Examination

Q. (By Mr. Cheney) Where are you employed, Mr. Davis?

A. Cheney California Lumber Company.

(Testimony of Ernest J. Davis.)

Q. What is your position?

A. Tail edger.

Q. What?

A. Tail edger, catching the strips. [392]

Q. Are you the stripperman that is there at the present time? A. Yes.

Q. How much do you weigh? A. 120.

Q. 120 pounds? A. Yes.

Q. Did you handle the same job that the gentlemen Mr. Allan and Mr. Glenn had?

A. Yes, sir.

Q. How long have you been working at that job?

A. Well, I was hired there June 1942.

Q. What did you do at that time?

A. I was there behind the edger; working there.

[393]

Q. Handling strips?

A. No, I was sorting two by fours.

Q. In other words, the same job that Mr. Allan had? A. Yes.

Q. The big fellow sitting over there?

A. Yes, sir.

Q. Were you able to handle that job satisfactorily to your knowledge?

A. Yes. They didn't have any complaints.

Q. How long did you work at that job in 1942?

A. About a week.

Q. Then what did you do?

A. They put me out on the chain.

Q. On the green chain? A. Yes.

(Testimony of Ernest J. Davis.)

Q. And what were your duties on the green chain? A. Pulling two by fours.

Q. How long did you work during 1942 for the company? A. All summer.

Q. All summer?

A. Yes, until school started in August. The last part of August.

Q. Then when did you go to work for the Cheney Lumber Company in 1943?

A. About the last part of May. [394]

Q. What was your job when you went to work, what job were you put on?

A. Catching these strips.

Q. And have you been catching the strips since?

A. Well, most of the time. Couple of days I pulled ties.

Q. You worked out on the green chain pulling ties for a couple of days? A. Yes.

Q. What job would you say is the most difficult, the job catching those strips or pulling ties?

A. Catching the strips you have got to work steadier.

Q. Have you worked in any other jobs around the Cheney California Lumber Company or any other lumber company different from those that you have handled there?

A. Yes, two by four chain about a week.

Q. I mean in any other mill?

A. I worked at Setzer's.

Q. What did you do at Setzer's?

(Testimony of Ernest J. Davis.)

A. Box factory.

Q. I see. From your observation of jobs, in your experience of different jobs, would you consider that job of catching strips the most difficult job in the plant? A. In the plant down there now?

Q. Yes.

A. Well, it isn't as difficult as some of them, [395] but it's sort of tough at times when the lumber gets piled up and you've got to rush them through.

Q. Are you able to—do you find time to place the strips in the hog conveyor or behind on the floor? A. I got to.

Q. Is it ever necessary for you to have to throw them into the conveyor, that is, are you ever rushed to a point where you have to throw them into the conveyor? A. No.

Q. Is it true that there is a bell connection with a button on your end of the edger, and with a gong on the edgerman's side? A. Yes, sir.

Q. What is the purpose of that bell?

A. When the lumber gets piled up there the planer stops, the edgerman doesn't see it, we have to have him stop so it won't pile up.

Q. Was that bell installed there when you started to work this year? A. Yes, sir.

Q. Could you say how long that bell has been installed?

A. It's been there all the time that I have this summer.

(Testimony of Ernest J. Davis.)

Q. And do you know of your own knowledge when the bell was first installed?

A. No, I don't. [396]

Q. Mr. Davis, did you sign a union card?

A. No, I didn't.

Q. You weren't there during the election, I guess; were you? A. No.

Mr. Cheney: That is all.

Cross Examination

Q. (By Mr. Jennings). Do strips ever fall from the belt on to the conveyor?

A. Small ones, not the tall lengths.

Q. But the small strips do fall through?

A. Yes, the ones that break up.

Q. Have you any way of stopping those, or do you try to stop them?

A. I stop some of them but not all of them. I can't.

ALVIN WAITTS

a witness called by and on behalf of the Respondent.

Direct Examination [397]

Q. (By Mr. Cheney) You are employed by the Cheney California Lumber Company, are you not?

A. Yes, sir.

Q. And you're the edgerman at the mill?

A. That is right.

Q. And would you state whether or not—or

(Testimony of Alvin Waitts.)

would you state approximately when the bell was installed?

A. Some time this spring. I don't know the date.

Mr. Cheney: It is stipulated that the bell was installed after the discharge of Mr. Glenn and Mr. Allan.

Q. (By Mr. Cheney) Mr. Waitts, did you ever have any conversations with Mr. Ben Cheney regarding the edgings in the big conveyor?

A. Whether to throw them in, or whether not to; you mean?

Q. Yes. [398]

A. He told me a number of times that when he was down that he didn't want them throwed in there.

Q. Did he give you the reason why he didn't want them thrown in?

A. Well, he said it caused the trouble with the chain. [399]

B. B. CHENEY

a witness called by and on behalf of the Respondent

[400]

Direct Examination

Q. (By Mr. Cheney) I believe for the purpose of the record, Mr. Cheney, you testified yesterday that you were President of the Cheney California Lumber Company? A. That is right.

Q. And your residence?

(Testimony of B. B. Cheney.)

A. Tacoma, Washington.

Q. Mr. Cheney, do you find it necessary to make periodic trips to Greenville?

A. Yes. I have made trips regularly right along.

Q. How often are you in Greenville?

A. Well, I have come here at least once a month for nearly a year.

Q. And how long do you stay at each trip?

A. Well, I stay from periods ranging from a few days and as high as ten days or two weeks.

Q. Are you familiar with the operations--the mechanical of the mill here at Greenville?

A. Yes, in a general way I am.

Q. Are you acquainted with all the employees at the mill?

A. I think I know pretty nearly every man at the mill.

Q. Have you always made it a point to become acquainted with any new employee that comes into the mill? [401]

A. That has always been our policy in our companies, not only this company in which I'm interested, but also other companies. It's our business to do that. We've got to have employees just like we have to have these men. They are just part of the business; and especially today where we have to get out pressing contracts, more than ever we have to work just as closely as possible to get orders out and it's only the intention of myself and the company to work very closely with the men that are

(Testimony of B. B. Cheney.)

working for us and get their cooperation. We need every man. There is a manpower shortage and we need each man that is on the job and therefore I have always tried to work closely with all of our men.

Q. Now, Mr. Cheney, have you ever been engaged in labor litigation of this type before?

A. Never have had any trouble like this.

Q. Are any mills that are operated by you union?

A. Yes.

Q. Have you ever had any trouble with them?

A. None whatsoever. It doesn't make any difference to the company. We want the men to have their choice. That has always been my policy.

Q. Mr. Cheney, you were in Greenville, were you on the—were you here on the day of the election?

A. Yes, I was here.

Q. Were you here the day that the election was set, which I [402] believe was the 19th?

A. No, I was not.

Q. Did Mr. Williams of the AFL who testified he talked to you on the day that the election was set, which I believe was the 19th,—have you ever met this gentleman?

A. I never have seen Mr. Williams in my life before until today.

Q. Since this trouble started, since this case was started, have you ever made any offer of settlement?

A. Yes, I tried very hard to work it out because if I may, as a background, why, more than ever I

(Testimony of B. B. Cheney.)

wanted to work it out—we have some very important contracts. All of these men were engaged in some very important war work. We have contracts—our various companies have contracts. We supplied ties first for the Burma Road. We supplied the railroad ties for Iran and Iraq, that is, the Caucasus, where you're all reading about where the allied drive may go through. The War Department called me from New York the day after the invasion of Africa and wanted a hundred cars of ties rushed to the East Coast, and they said "You might know where it's going", indicating that it was Africa. At the present time we are cutting on large contracts for Alaska and then we have the contract with most all the transcontinental railroads in this country, and consequently this is very, very important work, and the continuation of the production of our mill is [403] of vital importance and therefore I tried in every way possible to make a settlement with Mr. Jennings. I even indicated regardless of whether these men that I discharged were right or wrong that we would go a long ways in settling; even to offering them their pay and reinstatement to the job providing they let the men have the union that they wanted to vote for; whether it would be AFL, CIO or IOU. It didn't make any difference. And Mr. Jennings just constantly refused right along and he wanted—no question, he wanted the AFL.

Q. Mr. Cheney, have you any objections to the AFL being at the plant?

(Testimony of B. B. Cheney.)

A. I don't have any objections to any union coming in.

Q. Why then, Mr. Cheney, are you adverse to the AFL being installed at the plant under the existing circumstances?

A. I don't want any union that the boys don't want rammed down their throats and I know Mr. Jennings told me that he had 40 CIO cards—you told me that yourself—therefore it was indicative that the CIO was apparently working. A lot of the boys I know have said that they don't want the union. I've heard that expressed and there are others that are very strong, very strongly want the AFL, and all we want as a company policy is for these men to have their own choice and I have stood firmly on that all the time; but these boys are being denied that right and that is all that [404] we ask, is that these men have their own choice.

Q. Well, Mr. Cheney, have you offered to allow an election and encouraged that another election be held at the plant?

A. We have repeated the offer a hundred times to Mr. Jennings, that that is all we wanted: We don't care what union it is, just so these boys have their rights. And as I said, we indicated that if he would do that we'd go a long way to settling this case. This takes a lot of our tax money to carry on this thing. It takes our time. I had to bring a man out from Washington and I think the evidence here is that there is no hard feeling among

(Testimony of B. B. Cheney.)

any of us, if a blame good crew—and I think there is the finest kind of relationship between the company and the men—and there shouldn't be any of this trouble. This is just going to a lot of expense and folly that none of us should be here for.

Q. Well, now, Mr. Cheney, was the company experiencing any trying times or any difficulties during the month of May, particularly the 22nd of May, 1943?

A. Yes, it was because of the breaking of that chain I was here in April. The month of April I had been coming along, and we were having persistent trouble and when I was here in April at the time that Mr. La Fluer was down to install the hog and they were throwing the edgings in the mill and it broke down numerous times while I was here, because—for one cause. And I asked Herman Higday to go and ask Glenn [405] and Allan not to put the strip in the conveyor and that afternoon Mr. Allan threw a strip like a little kid—

Mr. Jennings: Mr. Examiner, I object to that unless Mr. Cheney indicates that he has personal knowledge of it, no indication that he has any knowledge of it.

Mr. Cheney: I wanted to speed these things up, but if you want him to answer each question as it is asked I'll do that.

Trial Examiner Ward: Confine it to the question and omit characterizations of persons involved.

(Testimony of B. B. Cheney.)

Q. (By Mr. Cheney) Just tell us, Mr. Cheney, the difficulties that the plant was experiencing at the time. That is, if they had trouble on various things around there; what they were, and why the men weren't getting steady employment.

A. That is it. It was down and we had to lay off so many times and naturally we wanted to run to complete our contract and the men wanted continuous operation because spring was here, and we wanted to give the men that continuous work, and because of the throwing of the strips in the conveyor it was causing it to break down; and causing—which if there was any unrest at that time, and as the union organizer said, maybe that is what made the boys ripe as he put it, and got in his lucky break when he signed them up in front of the Post Office. It was things like that that [406] caused it.

Q. It was testified here yesterday by the union organizer, Mr. Wyatt that he found the boys ripe, as he put it, and that it was a lucky break that they were all—or a majority of them were standing in front of the Post Office.

Q. And Mr. Cheney, would you state the conditions at the mill which made those men ripe, or laid those men off at that time?

A. Well, the condition at the time that I think that he found the boys ripe, was there was a spring storm, a freshet and the tailing stem up above where an old mine had been up on the hillside, and the stream ran from that tailing stem down through our

(Testimony of B. B. Cheney.)

pond and it brought the tailings down and filled the pond with silt.

Q. Did it fill the pond to a point where—

A. It filled it so you could walk right across what is today's water level. You could walk across the pond and it was necessary to close the mill down and re-dig the pond; which was quite a job. [407]

Q. Mr. Cheney, have you at any time made any remark or attempted in any way to persuade the employees of the Cheney California Lumber Company in regard to their affiliations with the union?

A. No. We want these men to have the union of their choice.

Q. Have you ever called them in a meeting and talked to them about unions? A. No, never.

Q. Have you ever instructed Mr. Pease to call the men together and to instruct them in their union activities?

A. Never. It's not a company policy to do that.

Q. Were you aware that Mr. Pease did call the men together?

A. No, I never knew anything about that.

Q. It was done without your consent?

A. Done without our knowledge and consent; that is right, because I want to say to the boys, everyone of them here, they know if they have ever talked to me, that I have always told them that I want them to have what they want.

Q. You at the present time then are willing that the men have an election and they take the union of their own choice regardless of what it should be?

(Testimony of B. B. Cheney.)

A. That is right. More than willing. We want that, we request that.

Q. Did you ever offer to take back any of these men that [408] were discharged?

A. I indicated that we would even take the men back and pay whatever penalty is necessary in order not to have to lose time and cause all this unrest because of the important contract and the important work that these men are doing; that our production was of the utmost importance.

Q. What was the stumbling block, you might say, in your negotiation with the union and with Mr. Jennings in regard to a settlement?

A. That he very cleverly worked around that, always regardless, even offering to take Glenn and Allan back, that Glenn's vote counted. There was only one reason behind it, that the AFL be put in here or a union be put in on the boys, without them having a chance to vote on it.

Q. In other words, you would take these men back and pay the penalties if the men were given the right to vote? A. That is right.

Q. Did you feel at the time of the election on May 22, 1943, that the men were in such mental condition you might say, because of the quibbling that was going on, that they weren't, you might say, able to choose or didn't have a fair chance to choose the union?

A. No, I wouldn't say that. I would say that it was a fair chance and the votes showed that it was

(Testimony of B. B. Cheney.)

16 to 16 and therefore it was tied and there was no settlement. Since [409] that time apparently another union has come in and then I have heard a lot of the boys tell me, "Well, this thing has gone on and caused so much trouble here that we don't want any union at all", so there is three different factions and I want the boys to have the faction that they want. I want them to have their choice and even offering—I have gone a long ways because I personally had Allan and Glenn discharged: and they should not—their votes absolutely shouldn't count because they were discharged for good cause. We don't discharge anybody unless there is a just cause, and I requested of Lionel Pease to discharge those men after I personally asked them not to throw in the strips, and in addition to asking them myself the day before they were fired I asked Herman several times and he went over to them. They asked me if they could meet with me and talk it over that evening and I told them I would be glad to come down and talk to them at 7:00 o'clock; which is also a policy of the company. We will always discuss any trouble with our employees. They are always more than welcome to come and talk over anything, and that is the way that a lot of trouble can be avoided and have the closest relationship with our men.

Q. Mr. Cheney, could you state that during your experience as head of these different companies how many men you have asked to be fired?

(Testimony of B. B. Cheney.)

A. Well, I have never caused any man. These are the first [410] two that I have ever caused to be fired.

Q. These are the first two that you have ever fired? A. Ever.

Q. Then as I understand it, Mr. Cheney, you are willing to take them back to work and do everything that was asked of you providing that they gave the men a chance to call another election?

A. I indicated my willingness to go that far in order to give these boys a right to vote for whatever they wanted.

Q. And that was refused? A. Absolutely.

Q. And who refused that?

A. Mr. Jennings.

Q. Are you willing at this time to have an election? A. At any time. That is what we want.

Mr. Cheney: That is all.

Cross Examination

Q. (By Mr. Jennings) Regarding settlement, are you willing at the present time to offer reinstatement of Mr. Glenn?

A. Providing that the boys are given a chance for an election.

Q. Are you willing to grant a reinstatement to Mr. Allan?

A. No, I don't think so under his testimony this morning what I saw of him.

Q. Well, all of your offers to work out some settlement [411] are conditional upon the election

(Testimony of B. B. Cheney.)

that the Board held not counting and another election being held?

A. That is right. That the boys be given a chance to vote for what they wanted.

Q. Has your insistence been that if they wanted no union they should have the right to choose no union?

A. Whatever the boys wanted; that is up to the boys.

Q. And you felt that possibly they wanted no union?

A. No, I don't know what they want. You indicated that there was some 40 CIO cards. I didn't know that there were that many. I heard some of the boys say "I'm CIO". Other boys say "I'm AFL". And other fellows said they have had so much trouble here I don't want any union. So there are three factions. I don't know.

Q. As a matter of fact, didn't you tell me that you heard there were 30 CIO cards?

A. No, I did not. You told me that. You told me in front of Mr. LaFluer. You indicated that Mr. Hawson, I don't know who he is, or I didn't know until you mentioned him, I had never heard of him. You said they had turned over 30 CIO cards over to you.

Q. Isn't it true that I explained to you that my only job here was to handle this complaint case and that I had nothing to do with the representation case?

(Testimony of B. B. Cheney.)

A. You said that, but I suggested that surely in your [412] capacity if the Government wants to expedite working these things out, that an indication to your National Labor Relations Board would be fair to the men, and settle this case and get the thing behind; and let the men have an election.

Q. Didn't I tell you the first thing to do was settle the complaint case and then talk about an election?

A. That is the very thing that you're coming back to all the time. You're going to put in a union without an election.

Q. Answer my question. Didn't I tell you the first thing we have to do is clear up the unfair labor practices and then we could talk about an election; isn't that true?

A. You might have said that but your whole thought, your whole story to me was to put over a union without giving the boys a chance.

Q. And I offered you a complete stipulation providing for a settlement of the unfair labor practices, didn't I? A. Yes, but in that—

Q. And you refused to accept it?

A. Absolutely, I refused.

Q. When you put Lionel Pease down here as manager you knew something about him, didn't you? A. Yes, I did.

Q. You knew he was anti-union?

A. No, I did not.

(Testimony of B. B. Cheney.)

Q. How long have you known him? [413]

A. I have known Lionel Pease for about three years, I would say.

Q. You put him down here without knowing anything about his attitude towards the union, or his feeling towards the union?

A. Lionel Pease's background is that of a farmer boy who came from eastern Washington, working on a farm, operated a small mill in some timber that we owned, one of our companies owned, and he was very, very successful. Then we got another tract of timber for him and put him into the second tract and he enlarged his mill and was—I think he had around 10 or 12 employees and was very successful in operating it—and he just looked like a young fellow with a lot of promise, and we needed some one down here and he had just cut out that setting and had done so well in the short time that I thought a fellow of his age—and he had quite a bit of mechanical ability—could come down here and operate this mill.

Q. During the time that you were down in Greenville did you discuss with Mr. Pease the various men working around the mill?

A. We discussed the various jobs when I was down here. It has always been my policy to be around and see what the men are doing and lots of times there may be suggestions, instead of me talking to the mill direct I will talk it over [414] with whomever is running the operation and sometimes

(Testimony of B. B. Cheney.)

the suggestions are workable, other times there are very good reasons why they shouldn't be put into effect.

Q. Now, as a matter of fact, it was your custom to discuss the abilities of various men with Pease when you came down here, isn't that true?

A. Well, we discussed various men, yes.

Q. You secured from him his opinion as to the man's abilities? A. That is right; naturally.

Q. And you would discuss the abilities of most of the men in the plant? A. That is right.

Q. Where they'd fit in best and so forth?

A. That is right.

Q. During any of those discussions did you talk about—with Pease—about the question of the men's union affiliation? A. Never.

Q. Didn't Pease bring that up? A. Never.

Q. Did you discuss with Pease the abilities of Glenn and Allan?

A. Yes. I asked him about them because as I say they were throwing the strips into the conveyor, and I asked over [415] and over again that they not do it, and Pease said, well, they tried Glenn every place in the mill and he wasn't very successful at any of them but he seemed to be trying and therefore he wanted to give him every chance possible, which I would say is a good thing to do.

Q. What about Allan? Did you talk about Allan with Pease?

A. I didn't know Allan. Allan was a new man,

(Testimony of B. B. Cheney.)

and I was here in April when he throw the kiddish fit and then a month later when we asked him not to do it and he continued, he deliberately threw them in I told Lionel that night after work I said, "Just get rid of those two fellows. This thing is too serious, and I want you to fire them the first thing in the morning." That is the first two men as I say of the hundreds upon hundreds that I had had working that I have ever asked to be discharged.

Q. You talked upon Glenn and Allan with Pease more than that, didn't you?

A. No. Our only discussion was of the work.

Q. Where is Pease at the present time?

A. I think he's in Washington or Oregon.

Q. What is he doing?

A. I really don't know.

Q. Were you present when Pease gave a statement to Miss McElroy, the Field Examiner for the Board? A. No, I was not. [416]

Q. You know that Pease told Miss McElroy that he was the man that fired Glenn and Allan?

A. I told Pease to do it; sure.

Q. He told her that he had fired them; you know that, don't you?

A. Well, I don't know what he said to Miss McElroy but I know that I told Pease to fire Glenn and Allan.

Q. Is Pease working for your company?

A. No, he is not.

(Testimony of B. B. Cheney.)

Q. What company is he working for?

A. I don't think as far as I know he is working for anyone.

Q. Is he working for a related company?

A. He is not.

Q. When was the last time he worked for you?

A. The last time he worked is when he left our employment here late in June.

Q. Where did he go then?

A. He went up to southern Oregon.

Q. Worked in one of your mills up there?

A. He worked a short time as a laborer, just a few days I think, off and on as a laborer, I think only maybe two or three days.

Q. For your company?

A. Only two or three days, yes. [417]

Q. He worked for your company?

A. For one of my companies, yes.

Q. Did you relieve him up there then, send him some other place?

A. No, we did not. He left

Q. What happened to Higday?

A. Higday went up with Lionel. I think it was Lionel's intention to build a sawmill of his own and Higday went along with him.

Q. At the time you fired Glenn and Allan you knew this election was coming up, didn't you?

A. I knew that the election was coming up, yes.

Q. You knew it was to take place the following day? A. I knew it was posted there, yes.

(Testimony of B. B. Cheney.)

Q. You knew from Pease that Glenn and Allan had both acted in the union, didn't you? That they were active?

A. No, I did not. It wouldn't have made any difference if they had been. It doesn't make any difference to me or to our company what a man's union affiliation is, that is his own business.

Q. Immediately after the election was held the question of counting Glenn and Allan's ballot came up, isn't that true? A. Yes.

Q. What was your position? [418]

A. My position was that there were three other fellows, three or four that had quit at the time Glenn and Allan and—

Q. Pardon, did Glenn and Allan quit?

A. Or were fired and—or left, whatever you want to call it and they left and so Miss McElroy was very upset that they were going to lose—she and Mr. Wyatt were talking it over. They were just ruined as far as the two of them were concerned.

Q. Will you answer my question, please?

A. Winning the election was your question then.

Q. Will you read the question?

(The question referred to was read by the reporter as above recorded.)

Trial Examiner Ward: Please confine your answer to the question and not offer any self-serving statements.

(Testimony of B. B. Cheney.)

(The question referred to was again read by the reporter.)

A. My position with Glenn and Allan was that their votes would not count.

Q. You insisted that their votes must be counted?

A. Absolutely.

Q. Did the union insist that the votes be counted?

A. Well, I suppose they did.

Q. If the votes were counted then the union would win the election, isn't that true? Didn't you assume that? [419]

A. No, I didn't because I didn't know what the votes were.

Q. What did you assume when you made the statement that if this case were settled and Glenn and Allan's votes were counted the AFL would be rammed down the men's throats?

A. Yes, because after that I found out they were 16 to 16. This came up as to their vote before the election and the reason I started to tell you about Miss McElroy and Wyatt was that they wanted the four men to vote also, and wanted their jobs offered back, or they wouldn't have a chance. So even though these men had left voluntarily I said we will offer, if they want to come back, them their jobs and so they immediately—Miss McElroy and Wyatt rushed up town in their car and brought—

Mr. Jennings: Mr. Examiner, I haven't asked any question which would elicit any of the testimony that the witness is giving now.

(Testimony of B. B. Cheney.)

Trial Examiner Ward: I have suggested that the witness not volunteer any statement. You are an intelligent witness and you know when you have answered the question. Please confine it to that.

Q. (By Mr. Jennings) You made that statement, didn't you, during the course of your testimony?

A. That is right.

Q. And in making that statement then you assumed that Glenn and Allan would vote for the union? [420]

A. It's quite obvious from the union's attitude of suing us.

Q. And you assumed that from the beginning, didn't you?

A. No, I did not; because I didn't know.

Q. You knew it from Wyatt, from his attitude from the beginning.

A. Well, apparently so. After they were discharged Wyatt was terribly nervous about it and wanted their vote counted but I told them that I absolutely wouldn't stand for it. They were discharged and for good reason.

Q. And you took that position consistently?

A. Absolutely.

Q. Before the election and after the election?

A. Not before the election, after Glenn and Allan were discharged.

Q. And that was on the assumption that their vote was in favor of the union, is that right?

(Testimony of B. B. Cheney.)

A. Well, it was quite obvious.

Mr. Jennings: That is all.

Redirect Examination

Q. (By Mr. Cheney) Mr. Cheney, on cross examination Mr. Jennings brought up your opinion as to the votes of Mr. Allan and Mr. Glenn. Did you ever see their ballots? A. No, I did not.

Q. You don't know how they voted? [421]

A. No, sir.

Q. You stated that in the attitude of Mr.—that union representative—that no doubt the votes were in favor of the union? A. Very obvious.

Q. Now, Mr. Cheney you stated that you asked Mr. Pease to discharge Mr. Glenn and Mr. Allan?

A. Yes.

Q. Now, what was your true position as to Mr. Glenn and Mr. Allan voting on the 22nd? They were discharged I guess, on the 21st, was it—did you refuse to count their ballots because you knew that they voted for the union, or because they were no longer employees of the Cheney California Lumber Company?

A. Only because they were no longer employed by the company. [422]

LINDSAY GLENN

a witness called by and on behalf of the National Labor Relations Board.

Direct Examination

Q. (By Mr. Jennings). You have been previously sworn? A. Yes.

Q. You know Mr. Manning, don't you, the sawyer in No. 3 saw, I guess we'd call it?

A. I do.

Q. Do you recall any occasion upon which Mr. Manning had a discussion with you about strips being thrown on the big conveyor?

A. Yes, one time. One morning just before work hours the conveyor was piled full of them and he come along and said something about it and I said "Well, the night watchman threw the strips in because I haven't started to work yet", and that is all the conversation that him and I had about the strips.

Q. Do you know when that conversation took place with reference to the date of your discharge?

A. It was before. [423]

Q. How long before?

A. Oh, I don't know just how long, something like—it was quite a while before I was discharged that the strips were in there. They were piled up there you know just a big pile of them. He made a remark or something about it.

Q. How long do you mean by quite a while?

A. I'd say three or four weeks or something like that.

(Testimony of Lindsay Glenn.)

Q. Did you have any conversation with Mr. Manning about the strips thereafter?

A. None, except he said it shouldn't be piled up like that, and I said I hadn't piled them up.

Q. Did you have any other conversation at any later date? A. No, sir.

Q. Is that the only conversation you have ever had with him about the strips?

A. That is the only conversation him and I had.

Mr. Cheney: Well, I might state our position as to the [424] answer. Mr. Cheney and myself as attorney for Cheney California Lumber Company will file an answer to the complaint in this case in which it will deny each and every allegation in the complaint and further set up affirmative matter along the line of the testimony given.

Mr. Jennings: Well, if I might, Mr. Examiner, I should like to state an objection for the record to the filing of an answer at this late date.

Trial Examiner Ward: You may make the objection.

Mr. Jennings: The answer was due ten days after receipt of the complaint. It was not filed at that time, nor has an answer been filed at any time during the hearing.

Trial Examiner Ward: Your objection will be overruled and you have five days from today to mail it to me. [425]

[Endorsed]: No. 10787. United States Circuit Court of Appeals for the Ninth Circuit. National Labor Relations Board, Petitioner, vs. Cheney California Lumber Company, Respondent. Transcript of Record. Upon Petition for Enforcement of an Order of the National Labor Relations Board.

Filed May 29, 1944.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.